

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 18, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 18, 2016 at 1:35 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; John Dailey; Bob Dool; Bill Ellison (Out @5:04 p.m.); David Foster; Mike Greene; John McKay Jr. (Out @2:50 p.m.); Lowell Richardson; John Todd and Chuck Warren. Members absent were: Matt Goosby; Joe Johnson; Debra Miller Stevens and Bill Ramsey. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor; Patricia Parker, Assistant County Counselor and Maryann Crockett, Recording Secretary

CHAIR NEUGENT introduced new Commissioner Mike Greene.

1. Approval of the July 7, 2016 Planning Commission Minutes.

MOTION: To approve the July 7, 2016 Planning Commission minutes.

MCKAY moved, **TODD** seconded the motion, and it carried (8-0-2). **GREENE** and **WARREN** – Abstained.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2016-00025: One-Step Final Plat – CLEAR RIDGE TOWNHOMES**

ADDITION, located on the south side of East Pawnee Road, west of South 143rd Street East.

NOTE: This unplatted site is located in the County adjoining Wichita's municipal boundaries and annexation is requested. Reserve A and Lot 2 which are zoned Single-Family Residential (SF-20), will be converted to Single-Family Residential (SF-5) upon annexation. The remainder of the site, Lot 1, Block 1, and Reserve B has been approved for a zone change (ZON2016-00011) from Single-Family Residential (SF-20) to Multi-Family Residential (MF-18). The lot zoned MF-18 has denoted the location of the 39 units for the purpose of establishing minimum pad elevations.

STAFF COMMENTS:

- A. As this site is adjacent to Wichita's municipal boundaries, the applicant may submit a request for annexation. Upon annexation, the portion of the property zoned SF-20 will be zoned Single-Family Residential (SF-5).
- B. City of Wichita Public Works and Utilities Department requests the applicant extend sewer (laterals) to all lots, and extend water (distribution) to all lots. In lieu-of-assessment fees on transmissions are due. A service area release is needed from Sedgwick County Rural Water District #3. The utility easement for the proposed sewer located outside of the plat boundaries needs to be established by separate instrument.

- C. The platlor's text shall include language that Reserve B includes utilities as confined to easements.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- E. City Stormwater Management has approved the drainage plan.
- F. Traffic Engineering has approved the access controls. The plat denotes two openings along Pawnee in accordance with the site plan submitted with the zone change.
- G. City Fire Department advises that the hammerhead at the southwest corner is an acceptable turnaround, however the entire private drive must allow for proper turns for fire apparatus.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- K. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- L. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- O. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.
- T. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense
- U. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RICHARDSON moved, **DOOL** seconded the motion, and it carried (10-0).

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- 2-2. **SUB2016-00026: One-Step Final Plat – NORTHWEST WATER TREATMENT PLANT ADDITION**, located on the south side of 21st Street North, East of Hoover Road.

NOTE: This unplatted site is located within the City of Wichita. A conditional use was approved (CON2016-00014) for a major utility (water treatment plant) on the portion of the site zoned SF-5 (Lot 3 and Reserve A). Lots 1 and 2 were approved for a zone change (ZON2016-00021) from Limited Commercial (LC) and Single-Family Residential (SF-5) to Industrial Park (IP).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests the applicant extend sewer (laterals) and extend water (distribution). In lieu-of-assessment fees on transmission are due.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. The inset needs corrected to denote Lot 3.
- E. The plat denotes two openings along 21st Street North for the IP-zoned property (Lot 1, Block 1) and two openings for the water treatment plant (Lot 3). The site plan approved with the conditional use denotes three openings for the IP-zoned lot and the plat needs revised. The plat's text states that access controls must comply with access management standards. Traffic Engineering has approved the access controls.
- F. The plat's text shall be corrected to reference Reserve A as being owned and maintained by the owner of Lot 3, Block 1.
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- J. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- K. The joint access easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.

- L. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- M. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- N. Elevations and minimum openings need shown as referenced in the plat's text.
- O. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- P. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- Q. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

W. Perimeter closure computations shall be submitted with the final plat tracing.

X. The applicant should check City or County GIS mapping to determine whether the location of any taxing district boundaries (e.g. school districts) crosses their property and plan accordingly to avoid unnecessary splitting of lots between taxing districts.

Y. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.

Z. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RICHARDSON moved, **DOOL** seconded the motion, and it carried (10-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2016-00032: City request to vacate a utility easement referenced in the plat's text on property, generally located north of Central Avenue on the east side of Hydraulic Avenue.

OWNER/APPLICANT: Timothy McGinty, Jr. (applicant), K.E. Miller Engineering, P.A. (agent)

LEGAL DESCRIPTION: Generally described as vacating the five-foot wide public utility easement (as referenced in the plat's text) located in the east five feet of Lots 25, 27, 29, 31 and the north 10 feet of the east 5 feet of Lot 33, Ratliffe's Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located North of East Central Avenue, on the East Side of North Hydraulic Avenue (540 North Hydraulic) (District I)

REASON FOR REQUEST: To build security fencing/wall and portion of new building

CURRENT ZONING: The site and the abutting property to the north is zoned Limited Industrial (LI). The abutting property to the south and adjacent property to the west are zoned General Commercial (GC). I-135 Highway is abutting to the east.

The applicant is requesting the vacation of the five-foot wide public utility easement (as referenced in the platlor's text) located in the east five feet of Lots 25, 27, 29, 31 and the north 10 feet of the east 5 feet of Lot 33, Ratliffe's Addition, Wichita, Sedgwick County, Kansas to install a security fence/wall and portion of a new building. Per the platlor's text: "The City of Wichita is hereby granted an easement on the rear five feet of each and every lot for the construction and maintenance of public utilities." Per City GIS, a sewer line exists within the subject easement.

Three vacation cases have been submitted in the past year (VAC2016-00001 for right-of-way vacation for Elm Street, VAC2015-00011 and VAC2015-00057 for utility easements) in conjunction with a new building that is being proposed to connect the two existing buildings north and south of Elm Street. The applicant is removing a manhole and sewer line under the building with a private sewer project (PPS 2267) and installing a new manhole at the new sewer terminus.

With this subject vacation case, the applicant intends to install a manhole south of the prosed wall/fence, located further south than shown on PPS 2267 and will necessitate another private sewer project to remove the additional sewer line.

City of Wichita Public Works and Utilities Department has no objection to the proposed vacation and requests a new sewer project for the installation of a manhole south of the proposed fence/wall and removal of additional sewer line. No other City staff has objections.

Westar Energy has equipment located outside the portion of the subject easement and therefore agrees with the vacation request.

No objections have been received from other franchised utilities. The Ratliffe's Addition was recorded with the Register of Deeds on February 16, 1924.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described public utility easement referenced in the platlor's text.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 28, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described utility easement referenced in the platlor's text and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

1. Vacate the five-foot wide public utility easement (as referenced in the plat's text) located in the in the east five feet of Lots 25, 27, 29, 31 and the north 10 feet of the east 5 feet of Lot 33, Ratliffe's Addition, Wichita, Sedgwick County, Kansas.
2. Provide a restrictive covenant tying the subject lots together to be used as one undivided parcel.
3. Provide Public Works with the project plans for the removal of public sewer line and manhole installation for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
4. All improvements shall be according to City Standards and at the applicants' expense.
5. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the five-foot wide public utility easement (as referenced in the plat's text) located in the in the east five feet of Lots 25, 27, 29, 31 and the north 10 feet of the east 5 feet of Lot 33, Ratliffe's Addition, Wichita, Sedgwick County, Kansas.
2. Provide a restrictive covenant tying the subject lots together to be used as one undivided parcel.
3. Provide Public Works with the project plans for the removal of public sewer line and manhole installation for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
4. All improvements shall be according to City Standards and at the applicants' expense.
5. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **FOSTER** seconded the motion, and it carried (10-0).

- **3-2. VAC2016-00033: City vacation of a platted setback on property,** generally located north of E. 13th N. and west of Webb Rd. (1624 N. Gatewood).

OWNER/APPLICANT: Ken and Pam Wells (owner/applicant)

LEGAL DESCRIPTION: Generally described as vacating the south 15 feet of the platted 25-foot building setback running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located North of 13th Street North, West of Webb Road, on the southeast corner of East Crestwood Street and North Gatewood Street (1624 North Gatewood) (District II)

REASON FOR REQUEST: To erect a detached garage

CURRENT ZONING: The site and the abutting and adjoining properties all zoned Single-Family Residential (SF-5)

The applicant is requesting the vacation of the south 15 feet of a platted 25-foot building setback from Crestwood Street running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition. The site is a corner lot with the shorter frontage along Crestwood and therefore defined as the front lot line per the Unified Zoning Code (UZC).

The Unified Zoning Code's minimum front yard setback for the SF-5 zoning district is 25 feet. The applicant's request reduces the platted 25-foot setback to ten feet. Section 10-104 of the Subdivision Regulations allows the Planning Commission to modify the setback standards.

No platted easements are located within the platted setback. A water hydrant is located within the setback at the northwest corner of the property. No manholes, sewer or water lines, or stormwater equipment is located within the described portion of the platted setback.

Stormwater Management, City of Wichita Public Works and Utilities, City Traffic and City Fire Departments have no objection to the proposed vacation. No objections have been received from any franchised utilities.

Westar Energy has street light equipment in the right of way at the corner of Gatewood and Crestwood and has no objection to the vacation request. A letter has been submitted from the Country Place Estates Homeowner's Association which is in support of the request.

The Country Place Estates Addition was recorded with the Register of Deeds on April 20, 1979

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate a portion of the described platted 25-foot front yard setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 28, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described platted front yard setback and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

1. Vacate the south 15 feet of the 25-foot building setback running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition, Wichita, Sedgwick County, Kansas
2. As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00033 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
3. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00033 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the south 15 feet of the 25-foot building setback running parallel to the north property line of Lot 41, Block 1, Country Place Estates Addition, Wichita, Sedgwick County, Kansas
2. As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00033 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
3. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00033 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **FOSTER** seconded the motion, and it carried (10-0).

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- 3-3. **VAC2016-00034: City request to vacate an easement referenced in the platlor's text on property,** generally located north of Harry Street, east of Broadway Avenue. (719 E. Zimmerly).

APPLICANT/AGENT: William S. Humphrey (owner), R.D. Wood (agent)

LEGAL DESCRIPTION: Generally described as vacating the language in the platlor's text referencing an easement granted to the City of Wichita, for the construction and maintenance of all public utilities, underground, on the rear 6 feet of Lots 1, 2 and 3, Wakefield Addition, Wichita, Kansas.

LOCATION: Generally located North of East Harry Street, East of South Broadway Avenue, on the southwest corner of East Zimmerly Street and South Mead Avenue (719 East Zimmerly) (District III)

REASON FOR REQUEST: Easement is not needed and applicant desires to clear title as existing structure encroaches the easement

CURRENT ZONING:

The site, adjacent north property, abutting south property, and adjoining property to the east are zoned Limited Industrial (LI). Adjacent property to the west is zoned Multi-Family Residential (MF-29).

The applicant proposes to vacate a utility easement referenced in the platlor's text within the south six feet of Lots 1, 2 and 3, Wakefield Addition. Per the platlor's text, "The City of Wichita is hereby granted an easement, for the construction and maintenance of all public utilities, underground, on the rear 6 feet of all lots".

The applicant desires to clear the title as the existing structure encroaches upon the easement. Per the City's GIS Viewer, there are no manholes, sewer lines, water lines or stormwater equipment located within the described utility easement.

Stormwater Management, City of Wichita Public Works and Utilities, City Traffic and City Fire Departments have no objection to the proposed vacation.

Westar Energy has no objection and advises any relocation or removal if necessary will be at the Applicant's expense. Shane Price, Supervisor, Construction Services will be the contact for this vacation request and can be reached at 261-6315.

No objections have been received from other franchised utilities. The Wakefield Addition was recorded on June 30, 1914.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described public utility easement referenced in the platlor's text.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time July 28, 2016, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described utility easement referenced in the platlor's text and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

1. Vacate the south 6-foot wide utility easement (as referenced in the platlor's text) of Lots 1, 2 and 3, Wakefield Addition, Wichita, Kansas.

2. As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00034 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
3. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00034 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the south 6-foot wide utility easement (as referenced in the platlor's text) of Lots 1, 2 and 3, Wakefield Addition, Wichita, Kansas.
2. As needed provide easements for public and franchised utilities. As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. Easements for public utilities, with original signatures, must be provided to Planning prior to VAC2016-00034 proceeds to the City Council for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds.
3. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide all required approved projects to Planning prior to VAC2016-00034 proceeds to the City Council for final action.
4. Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **FOSTER** seconded the motion, and it carried (10-0).

PUBLIC HEARINGS

4. **Case No.: ZON2016-00020** - City request to amend the Delano Protective Overlay to allow a wireless communication facility on U University zoned property, generally located southeast of West Maple Street and Meridian Avenue and southeast of Mentor Street and St. Claire Avenue.

CHAIR NEUGENT reported that the item was deferred.

- 5. **Case No.: ZON2016-00028** - Masoud Etezazi (owner/applicant) and Conco, Inc., c/I Kyle Blasdel (agent) request a City zone change from B Multi-family Residential, SF-5 Single family Residential and LC Limited Commercial to GC General Commercial on property described as:

Lot 1, except the north 10 feet thereof, and all of Lots 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23, on Guy, now Piatt Avenue, in Parkview Addition to Wichita, Kansas, Sedgwick County, Kansas.

TOGETHER WITH

Lot 2, except the north 10 feet thereof, and all of Lots 4, 6, 8, 10 and 12, on Sedgwick, now Minnesota Avenue, in Parkview Addition to Wichita, Kansas, Sedgwick County, Kansas.

TOGETHER WITH

Lot 1, Conway Addition to Wichita, Sedgwick County, Kansas, EXCEPT that portion platted as U.N.B. 2nd Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The subject property is two parcels located at the southeast and southwest corners of 21st Street North and Piatt. The east parcel is 1.9 acres zoned LC Limited Commercial, B Multi-Family Residential, and SF-5 Single-Family Residential and is developed with Etezazi Industries, a global manufacturer of machine parts and assemblies for aerospace, alternative energy, transportation and defense industry. Per the Unified Zoning Code (UZC), the uses of the east parcel are defined as Manufacturing, General (Sec. II-B.8.e.) and Welding or Machine Shop (Sec. II-B.14.n.). The uses of the east parcel are first permitted by the UZC in GC General Commercial zoning. The west parcel is 1.37 acres zoned LC, B, and SF-5 and is developed with The Market and MetroPCS. Per the UZC, the uses of the west parcel are defined as Convenience Store (Sec II-B.3.p.) and Retail, General (Sec. II-B.11.l). The uses of the west parcel are first permitted by the UZC in LC zoning; however, the applicant proposes to use the undeveloped portion of the west parcel for Warehousing (Sec. II-B.14.m.), which is not permitted in LC zoning but is permitted by the requested GC zoning.

The existing building on the east parcel was constructed as a vocational school to train employees in aerospace manufacturing. A vocational school is a permitted use in the LC zoning of the east parcel. Etezazi Industries purchased the existing building and manufacturing equipment in 2015 and began operating a manufacturing and machine shop. Since no building permit or change of occupancy permit was required, there was no review of the new use by the City of Wichita, and Etezazi Industries began operating a use that is not permitted by the UZC. There have been no complaints about the operation. The non-conformity of the existing use with the UZC arose when the applicant proposed an expansion of the operation requiring a building permit. Both the existing use and the proposed expansion require the requested GC zoning. If GC zoning is not approved, the applicant will need to relocate the existing business to a properly zoned property.

The applicant proposes to expand Etezazi Industries on the undeveloped portions of the east and west parcels as shown in the attached site plan. On the east parcel, the applicant proposes a 34,000 square foot expansion of the existing 11,460 square foot manufacturing and machine shop building. The applicant proposes a 10-foot building setback along the south property line of the east parcel and a 20-foot building setback along the west property line of the east parcel. The applicant proposes a screening wall along the south property line of the east parcel. On the west parcel the applicant proposes a 3,000 square foot warehouse and a parking lot. The applicant proposes 10-foot building setbacks along the west and south property lines of the west parcel and a 20-foot building setback along the east property line of the west parcel. The applicant proposes a screening wall along the south and west property lines of the west parcel. The applicant's proposal does not meet the following UZC requirements:

1. The entire frontage of the ground floor of the manufacturing and machine shop building along 21st Street North must be used for office space, display, or wholesale or retail sales (Sec. III-D.6.n).
2. The parking requirement is 96 spaces (note the site plan has inaccurate parking requirements) and 94 spaces are shown (Sec. IV.4.A.4.). The 96 space parking requirement is calculated as 85 spaces for manufacturing and machine shop (1 space per 500 square feet); nine (9) spaces for office (1 space per 333 square feet) and two (2) spaces for warehousing (1 space per 2,000 square feet).
3. Four parking spaces for persons with disabilities with are required and two are shown (Sec. IV.A.8.).
4. Two off-street loading spaces are required for customers and deliveries and none are shown (Sec. IV.A.14.).
5. The warehouse is adjacent to property zoned SF-5; therefore, a 25-foot compatibility setback is required along the south and west property lines of the west parcel (Sec. IV-C.4.).
6. The loading docks on the warehouse and manufacturing and machine shop building are not screened from view from Piatt (Sec. IV-B.3.e.).

The subject property is located along the 21st Street North corridor east of Interstate 135, which has been the focus of major revitalization efforts to improve the aesthetics of the community as well as provide increased employment and educational opportunities to neighborhood residents. Manufacturing and machine shops are an established use along this corridor, in particular at the 21st Street North and Piatt intersection. Two existing manufacturing and machine shops are located at the northeast corner of 21st Street North and Piatt on property zoned GC, and the subject property has a non-conforming manufacturing and machine shop in LC zoning. The corridor also has major educational institutions located along Opportunity Drive northeast of the subject property within the 21st Street Kids and Family Empowerment Planned Unit Development. Additional commercial uses along the corridor include several retail and office uses both east and west of the subject property on properties zoned LC and GO General Office. The remainder of the corridor is developed with residential uses, the most predominate of which are senior apartments east of the subject property on property zoned GO and single-family residences located both north and south of the subject property on properties zoned TF-3 Two-Family Residential, SF-5, and B.

CASE HISTORY: The east parcel is platted as the Conway Addition, which was recorded August 8, 1957. The west parcel is platted as part of the Parkview Addition, which was recorded March 26, 1910.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3, LC, GC	Single-family residences, retail, manufacturing, machine shop
SOUTH:	SF-5, B	Single-family residences
EAST:	GO	Senior apartments, office
WEST:	SF-5, B, LC	Single-family residences, retail

PUBLIC SERVICES: 21st Street North is a four-lane arterial street with a continuous center left-turn lane at this location. All public services are available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject property as “commercial.” The “commercial” category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The Locational Guidelines of the Comprehensive Plan recommend that the expansion of existing uses to adjacent areas be supported. The Locational Guidelines also recommend that non-residential uses should provide appropriate screening and buffering from residential uses and should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses. The *21st Street North Corridor Revitalization Plan* has a goal to increase the long-term economic renewal, vitality, and sustainability of the corridor.

RECOMMENDATION: Given the long-term efforts to revitalize the 21st Street North corridor with employment opportunities for neighborhood residents and the guidance of the Comprehensive Plan to support the expansion of existing businesses, planning staff supports the application. However, the already developed convenience store and retail on the LC-zoned portion of the western parcel are permitted uses, and planning staff finds changing the zoning of that portion of the subject property to be unnecessary. Additionally, the applicant’s proposal does not meet all UZC requirements or screening, buffering, and site design guidelines of the Comprehensive Plan. Therefore, planning staff recommends a Protective Overlay to address these issues. Based upon information available prior to the public hearings, planning staff recommends that a zone change to GC General Commercial be **APPROVED** for only the east parcel and that portion of the west parcel zoned B Multi-Family Residential and SF-5 Single-Family Residential, subject to the following provisions of a Protective Overlay:

1. Permitted uses shall be those uses permitted by right in GC General Commercial, except for auditorium or stadium, correctional placement residence, recycling collection station, recycling processing center, reverse vending machine, animal care, car wash, entertainment establishment, event center, kennel, marine facility, microbrewery, monument sales, nightclub, pawnshop, recreation and entertainment, recreational vehicle campground, riding academy or stable, secondhand store, sexually oriented business, tattooing and body piercing, tavern and drinking establishment, teen club, vehicle and equipment sales, self-storage warehouse, asphalt or concrete plant, outdoor storage, vehicle storage, and agricultural sales and service.
2. The entire frontage of the ground floor of the manufacturing and machine shop building along 21st Street North shall be used for office space, display, or wholesale or retail sales.
3. All buildings located within GC zoning shall share a uniform architectural character, color, and predominate exterior building material as approved by the Planning Director.
4. Development shall be in accordance a site plan approved by the Planning Director.
5. Building height is limited to 35 feet.

6. Building setbacks where GC zoning abuts residential zoning shall be 25 feet.
7. The existing hedgerow shall be preserved along the south property line and may count towards the landscaping required to meet the landscape buffer requirements of the Landscape Ordinance. If the existing hedgerow is damaged or dies, a landscape buffer equal to 1.5 times the Landscape Ordinance requirement shall be provided along the south property line.
8. A six (6) to eight (8) foot high concrete/masonry wall shall be constructed adjacent to the south and east property lines of the east parcel and adjacent to the south and west property lines of the portion of the west parcel zoned GC. The masonry wall shall not be constructed within a utility easement without the permission of the City Engineer.
9. Loading docks, trash receptacles, mechanical equipment, and outdoor work areas shall be screened from ground-level view from street right of way and adjacent properties.
10. Parking and loading shall be in accordance with Section IV-A of the Unified Zoning Code.
11. Signs shall per the Sign Code provisions for the LC district, except that no signage is permitted along the Piatt frontage or facing south.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The subject property is located along the 21st Street North corridor east of Interstate 135, which has been the focus of major revitalization efforts to improve the aesthetics of the community as well as provide increased employment and educational opportunities to neighborhood residents. Manufacturing and machine shops are an established use along this corridor, in particular at the 21st Street North and Piatt intersection. Two existing manufacturing and machine shops are located at the northeast corner of 21st Street North and Piatt on property zoned GC, and the subject property has a non-conforming manufacturing and machine shop in LC zoning. The corridor also has major educational institutions located along Opportunity Drive northeast of the subject property within the 21st Street Kids and Family Empowerment Planned Unit Development. Additional commercial uses along the corridor include several retail and office uses both east and west of the subject property on properties zoned LC and GO General Office. The remainder of the corridor is developed with residential uses, the most predominate of which are senior apartments east of the subject property on property zoned GO and single-family residences located both north and south of the subject property on properties zoned TF-3 Two-Family Residential, SF-5, and B.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned LC, which does not permit the existing manufacturing and machine shop uses. If the zoning is not approved, the existing business on the site will need to relocate.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The use restrictions and development standards of the recommended Protective Overlay should mitigate detrimental impacts on nearby properties.

- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted 2035 Wichita Future Growth Concept Map of the Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the subject property as “commercial.” The “commercial” category encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The Locational Guidelines of the Comprehensive Plan recommend that the expansion of existing uses to adjacent areas be supported. The Locational Guidelines also recommend that non-residential uses should provide appropriate screening and buffering from residential uses and should have site design features that limit traffic, noise, lighting, and adverse impacts on surrounding residential land uses. The *21st Street North Corridor Revitalization Plan* has a goal to increase the long-term economic renewal, vitality, and sustainability of the corridor.
- (5) **Impact of the proposed development on community facilities:** All public services are available to the subject property.

SCOTT KNEBEL, Planning Staff presented the Staff Report.

WARREN clarified that if the Planning Commission did not approve the staff recommendation for GC zoning on the north and west buildings, would the applicant continue to operate within zoning compliance or allowed to continue to operate as non-confirming uses.

KNEBEL said the buildings to the north and west do conform to LC zoning now.

FOSTER asked if the facility to the east met bulk regulation requirements because it was a massive structure.

KNEBEL commented that there were no standard building coverage requirements in GC zoning. He said as long as they can meet the parking requirements they are okay.

RICHARDSON asked can't the southwest site be used as parking as it is currently zoned.

KNEBEL said no, the applicant would have to obtain a conditional use for ancillary parking in a residential district.

ELLISON asked staff to clarify screening.

KNEBEL said staff is recommending a masonry wall on the east and south sides of the east parcel and the south and west sides of the west parcel. He referred to the site plan. He added that the masonry wall can prevent future expansion because it is costly to build and hard to tear down. He said if the business becomes more successful and wants to expand again, the wall will discourage them from buying up houses in the neighborhood and tearing them down so they can expand.

ELLISON clarified so there would be truck traffic from the storage area across the street east to manufacturing.

KNEBEL said he wasn't sure but they thought maybe forklifts.

RICHARDSON clarified if the application was approved, there would be major changes to the site plan.

KNEBEL indicated that was correct and said the site plan presented is not what staff is recommending at all.

KYLE BLASDEL, PROJECT MANAGER FOR CONCO CONSTRUCTION INC., 3051 N. OHIO, AGENT FOR THE APPLICANT said they are in agreement with staff recommendations and they realize that will require changes to the site plan. He specifically mentioned changing the orientation of the storage building to the north and providing screening. He also mentioned that the current building frontage along 21st Street is office space and that won't change in the future. He commented that they would update the site plan with the required setbacks and other items requested in the Staff Report.

MASOUD ETEZAZI, CEO ETEZAZI INDUSTRIES, APPLICANT, 2952 NORTH ARKANSAS said this building was recommended and sold to them by the City. He said they bought the building and redeveloped it with the consent of the City. He said they did a lot of investment to bring the building to its present condition and that they do not want to have to relocate. He said he also doesn't believe it will be good for the community if they relocate.

TODD clarified that the applicant purchased the building from the City of Wichita who knew what you were going to do with it.

ETEZAZI responded yes.

TODD asked how many employees they had.

ETEZAZI said right now 28, but with the expansion they believe it will be between 60-70 people.

TODD clarified that it would create a hardship on the company if they had to move.

ETEZAZI said yes, very much so. He said they have spent a tremendous amount of money on equipment and they have contracts that need to be delivered at the beginning of the year.

ELLISON asked if they are training people from the area.

ETEZAZI said approximately 35-40% of their employees have to be from the area in order for them to be awarded the contracts they are awarded.

JAMES BARFIELD, 1911 E. 21ST STREET said the neighborhood's main concern is the property to the west which is currently zoned for residential. He gave a brief overview of the neighborhood stating that the area was populated with hard working homeowners who pay taxes. He said many of the neighbors couldn't be here today because they work. He said these are not \$500,000 homes, but they have made the investment in them and raised families here. He said the neighborhood feels this is an infringement on their property and rights. He said the neighborhood is best known for the 1965 KC 135 crash that destroyed 12 homes and killed 30 people in the area. He said this area is in better condition today then when the airplane crashed.

BARFIELD said the primary purpose of zoning is to segregate uses that are thought to be incompatible. He said nothing is more incompatible than putting GC zoning in a residential neighborhood. He said zoning is also used to protect areas from uses that would interfere with the current neighborhood and preserve the character of a community. He said putting a warehouse and manufacturing facility is interfering with the character of the neighborhood. He briefly reviewed a presentation of pictures of homes in the surrounding residential neighborhood. He said the neighbors think this proposal is unprecedented and unthinkable. He said if this were in any other area of town this would not even be considered.

MOTION: To give the speaker three additional minutes.

TODD moved, **MCKAY** seconded the motion.

BARFIELD commented that the parking at the facility is currently underutilized and gave several examples of what he has observed at the location. He referred to unused green space consisting of approximately 2-3 acres to the east that would allow the applicant to double the size of the current operation without infringing on the residential properties across the street. He said the neighborhood is expected to welcome them with open arms because they have invested in a building without doing their "due diligence" because they are operating illegally. He concluded by saying that he represented the neighborhood who are totally opposed to any change in the zoning at this location. He said the property to the west is zoned residential and they want it to stay that way.

WARREN asked where the homes on his slide presentation were located and if any of them were built within the last 20 years.

BARFIELD reviewed the slide presentation and indicated that most of the homes were built within the last ten years, adding that one of the homes was less than two years old.

RICHARDSON asked what if the applicant put the warehouse on the north side of the west property and left the south side for employee parking.

BARFIELD said it will still disrupt the character of the neighborhood.

CARLA JACKSON PATTON, 1919 N. SPRUCE, PRESIDENT, POWER NEIGHBORHOOD ASSOCIATION boundaries of which were the west side of Grove to I-135 and north side of 17th Street to the south side of 21st Street. She said they welcome the convenience store and gas station. She said they are not in opposition of the expansion, but they want to maintain the integrity and character of Piatt Street and do not want GC zoning in the area.

SHUKARA SENTWALI, 2111 N. PIATT referred to a letter she sent to the Commission. She said she and her husband have lived in their home for over 25 years. She said they absolutely oppose the proposed zone change to GC. She said she has seen this happen before in other neighborhoods and mentioned North Ohio and the McAdams neighborhood which was all homes until industry took over. She said they know that will happen here if the zoning is changed. She said the homeowners will not settle for this and will continue to protest if this is allowed.

SENTWALI mentioned that the current facility has only been there a year. She asked how they could have not known they were going to need to expand. She said most business plans project five years in advance. She asked how many of the people present would want this to happen yards from their home. She asked the Commission to listen to the tax paying residents in the area, some of which have lived there for over 50 years and not change the zoning to GC in their neighborhood.

WARREN said he appreciated her passion about protecting the properties; however, he said he was not sure the land to the west was viable for future new home construction because it was next to LC zoning.

SENTWALI said they do not want the zoning changed. She made several comments relative to the City selling property where the Boys and Girls Club was located to an out of town white buyer for less than what was quoted to a local black organization that tried to buy the property.

DOOL asked about installation of a masonry wall on the south side of the west property.

SENTWALI said that is not the issue; they don't care what the applicant puts up, the neighborhood does not want the zoning changed to GC.

SONYA HOUSE, 2123 PIATT said she has lived in the neighborhood for over 60 years. She said she used to live at 2020 N. Washington but the property was bought for development. She said they take a little bit at a time and ease and inch into a neighborhood until it is all gone. She said now the whole area from Washington down to Murdock is gone and you can't even tell that people used to live there. She said she is very much against the zoning change and does not want it. She said she is a weak old woman defending her house and home for her and her grandchildren. She said she is very anxious to see their neighborhood left alone like it has been all these years. She said she's sure they wouldn't want someone to come in and take over their house that their mom and dad worked for. She asked the Commission to leave it alone that it belongs to her grandkids and their grandkids.

MOTION: To give the speaker an additional minute.

WARREN moved, **DOOL** seconded the motion.

HOUSE mentioned that she saw the KC 135 jet crash with her own two eyes and her life was spared. She said the area is sacred to her and they fought for a monument to be put down there. She asked that they not move her house out from under her. She said no, they do not want this they want to keep their own house and property.

HORACE HOUSE, 1641 N. ERIE said he grew up in this area and played sports on the lot to the west the applicant is trying to rezone. He said the lot was used as a morgue when the plane crashed and he said putting a business on it will desecrate that ground. He said his mother and the rest of the neighborhood paid special assessments for road improvements in the area and he said it's not fair that these guys come in and benefit from that.

OLETHA FAUST-GOUDEAU, STATE SENTATOR, 1130 N. PARKWOOD commented that a number of her constituents and relatives reside in the area of 21st Street and Pitt and that she was raised in the area. She said as far as the proposed compromise of a wall, she doesn't think her aunt will want to look out her window at the back of a wall. She said she was surprised there was not a town hall discussion regarding this issue where residents could voice their opinion. She said she is totally in favor of economic development but none of the 20 employees are from within a two-mile radius of the neighborhood.

MCKAY (OUT @2:50 p.m.)

FAUST-GOUDEAU commented that she believes that installation of a parking lot would create more negative activity with people coming and going and standing about and things of that nature. She mentioned the neighborhoods work on the monument to honor those who lost their lives when the KC 135 crashed into the neighborhood. She said she is in strong opposition to turning this residential area into a commercial area. She mentioned the approximately 3 acres to the east of the location that could be used for expansion. She said she is concurring with the residents and asking the Commission to vote in opposition to this request.

RICHARDSON commented that the dilemma is the building was vacant for quite some time. He said even with the current zoning this site is available to a number of uses that might not be what you would want in the neighborhood. He said this is a manufacturing operation that by regulation has to provide jobs to people within the neighborhood. He said it does not operate at night or generate traffic at night. He asked the speaker if she could see a way that the manufacturing operation could be allowed to happen but not be a detriment to the neighborhood. He said this may also be a way to eliminate the uncertainty in the area because some of the lots are zoned multi-family which might generate more problems for the neighborhood. He asked if she saw any compromise here.

FAUST-GOUDEAU commented that the parking spaces aren't being used now. She said she is in opposition of any activity on the southwest side of the street. She suggested the Commission take a physical tour of the area. She said this proposed expansion will generate additional noise and activity that is not there now.

RICHARDSON commented that he (and he suspects other Commissioners) drove through the area prior to this hearing.

TODD asked when the item will be presented to the District Advisory Board (DAB).

CHAIR NEUGENT reported that the item is scheduled to be heard by DAB I on Monday, September 12, 2016.

FOSTER asked about sight line views.

FAUST-GOUDÉAU referred to her aunt's house at 2123 N. Piatt. She concluded by asking for the Commission's opposition to this proposal.

LONNIE WRIGHT, 1711 S. LULU commented that at the Saturday September, 2016 District I breakfast when the applicant presented their plan for expansion it received a positive response from the audience. He said people also expressed that they were grateful that people from the community had been hired by the applicant and that they were good neighbors.

KYLE BLASDEL, CONCO CONSTRUCTION INC., AGENT FOR THE APPLICANT commented that the additional parking is required by the Unified Zoning Code for the proposed expansion.

ETEZAZI reiterated that the City sold them the building to help spur economic development in the area. He said they received very positive feedback when the plans to both buy the building and the expansion were presented at the District I Breakfast. He said the addition to the west is required for both parking and material and equipment storage needs. He mentioned that the proposed parking area will be fully gated, lit and access controlled.

MOTION: To give the speaker three more minutes.

WARREN moved, **TODD** seconded the motion.

ETEZAZI said they may not be able to hire within the two mile radius, but they are hiring from the surrounding residential area. He said he means no disrespect and that they understand that most of the community next to them is senior citizens, but they are looking to hire the next generation to offer training and develop a work force, that is what they are trying to do. He said a park has been developed for this area to the south and the property to the west has always been vacant. He said before they took over this facility it was vacant and ruined. He said they designed and developed the buildings for this type of manufacturing and that they had no plan to expand as fast as they are. He said it is not their plan to go into the community. He said one third of the area is zoned Limited Commercial, one third is zoned single-family and another third is zoned multi-family which is how it was zoned back in the 1940's but they purchased it all as one parcel. He said they have made the property look nice for the community. He said if this is not approved it will have tremendous damage to the business and loss of major contracts and work force. He concluded by urging the Commission to approve this.

TODD clarified that the applicant bought this property from the City of Wichita and they approved what was being proposed there.

ETEZAZI commented that Councilwoman Williams was very supportive of the idea.

TODD said there was no mention of a required zoning change.

ETEZAZI said not at that time, the City Council was in favor of this.

TODD asked if any new houses were built in the area since his company moved in.

ETEZAZI replied yes.

FOSTER asked about buffering in the area.

ETEZAZI said buffering will be as recommended by Planning Staff and that there will be landscaping on the front, back and side of the facility. He said the area will look professional, neat and clean.

RICHARDSON asked if the west side was strictly a parking lot, would that work.

ETEZAZI said since a 25-foot easement is required and they originally planned on a 10-foot easement, that shrinks the size of the facility they were planning so they would like an extra warehouse on the west side adjacent to the parking.

RICHARDSON asked if the warehouse could be moved clear to the north end of the property.

ETEZAZI said that is not a problem, they plan to move it to the north side of the property.

CHAIR NEUGENT asked the applicant to clarify their statement that the Council Member was in favor of this proposal. She clarified that the City Council hasn't guaranteed anything, right?

ETEZAZI said there have been no guarantees; the Councilwoman was in favor of what the company is doing at this location in terms of economic development and improvement in the area. He said prior to their relocating here the land was vacant and the building was not being used.

WARREN commented on the emotional issues associated with the land; however, that is not for the Commission to consider. He said the property owner has the right to use his property. He said if the community feels it is "sacred ground" they should buy it to protect it. He said he would like to make a motion to approve the request with some conditions. He suggested some additional buffering requirements; that the proposed building for the west side be moved to the north end of the property and that the fence be eight foot tall.

FOSTER commented that he felt the buffering issues on the west side side of the property consisted of three different elements which were to protect the trees and establish sufficient clearance; to provide evergreen buffering; and to respect the potential green space area. He said there is the potential to provide a buffer of 30-50 feet by the time the building is moved to the north. He also suggested a reduction in the parking requirement. He said the same elements apply to the east side but could be done in a tighter fashion, maybe 30 feet.

DIRECTOR MILLER said staff needs definite direction such as specific dimensions and mentioned minimum compatibility standards for buildings at 15 feet to a maximum of 25 feet so that could be converted to an open space buffer/landscaping area; or, the Commission could recommend a defined landscape and site plan which could either be approved by staff or brought back to the Commission for review and approval.

FOSTER suggested a 30-foot buffer on the east parcel and a 50-foot buffer on the west parcel. He also recommended double the quantity of evergreens.

MOTION: To approve subject to staff recommendation with the addition of a 30-foot buffer on the east parcel and a 50-foot buffer on the west parcel; double the quantity of evergreens; eight-foot concrete masonry wall and the warehouse to be located on the north end of the west property.

WARREN moved, **DOOL** seconded the motion.

SUBSTITUTE MOTION: To defer the application until after the DAB meeting.

TODD moved, **ELLISON** seconded the motion.

TODD said he thinks there should be more dialogue (that he didn't consider a District I breakfast sufficient) and the neighbors be made aware of what can go onto the property as it is zoned.

There was discussion regarding continuing the item or starting over.

DIRECTOR MILLER said if the site plan is changed, he doesn't think you can deny the public the right to address it.

TODD suggested a totally new hearing.

WARREN commented that ultimately this decision will be made by the City Council and they have the right to change anything the Planning Commission or DAB recommends. He suggested sending forward a plan and let the City Council make the final decision.

FOSTER commented that the DAB makes a recommendation to the governing body, not to the Planning Commission.

The **SUBSTITUTE MOTION** to defer the item failed (3-6). **DAILEY, DOOL, FOSTER, GREENE, RICHARDSON** and **WARREN** – No.

The **ORIGINAL MOTION** to approve subject to staff recommendation with the addition of a 30-foot buffer on the east parcel and a 50-foot buffer on the west parcel; double the quantity of evergreens; eight-foot concrete masonry wall and the warehouse to be located on the north end of the west property carried (7-2). **ELLISON** and **TODD** – No.

6. **Case No.: ZON2016-00034** - Ritchie Development Corporation (owner) and Baughman Company, PA, Attn: Phil Meyer (agent) request a City zone change from LI Limited Industrial to SF-5 Single-family Residential (approx. 38.5 acres) and MF-18 Multi-family Residential (approx. 41.1 acres) on property described as:

All of Lots 3 and 4, Block 2, TOGETHER with all of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, Block 3, TOGETHER with all of Lots 1, 2, and 3, Block 4, TOGETHER with all of Reserves "B", "F", and "G", TOGETHER with all of Founders, Founders Ct., and Collective Ln., all as platted and dedicated in Greenwich Business Center Addition, an addition to Wichita, Sedgwick County, Kansas, TOGETHER with that part of 28th St. as dedicated in said Greenwich Business Center Addition lying east of and abutting the following described line: Beginning at the northwest corner of said Lot 15, said northwest corner also being a point on the west line of Government Lot 2 in Section 3, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence N00°35'43"W along the northerly extension of the west line of said Lot 15, (and along the west line of said Government Lot 2), 70.61 feet to the southwest corner of Lot 3 in said Block 2, and for a point of termination, and TOGETHER with that part of 29th St. N. as dedicated in said Greenwich Business Center Addition lying east of and abutting the following described line: Beginning at the northwest corner of said Government Lot 2; thence S00°35'43"E along the west line of said Government Lot 2, 60.00 feet to the northwest corner of Lot 4 in said Block 2, and for a point of termination.

BACKGROUND: The applicant is requesting a zone change from LI Limited Industrial to SF-5 Single-Family Residential (approximately 38.5 acres) and MF-18 Multi-Family Residential (approximately 41.1 acres) zoning on approximately 79.6 acres of the newly platted Firefly Way Addition (it is currently platted as the Greenwich Business Center Addition, see attached exhibit.) The applicant proposes to build single-family residences, duplexes and multi-family residences on the newly platted lots.

West of the subject property is MF-18, LC Limited Commercial and LI Limited Industrial (CUP DP-333) zoned property that is developing with apartments and destination retail. Property east and south of the subject property is SF-5 zoned Woods North Addition, 2nd Addition and 3rd Addition developed with single-family residences. Immediately south of the subject property is SF-5 zoned Fairmount Addition that is developed with single-family residences. North of the subject property, across 21st Street, is RR Rural Residential large lot agricultural land.

CASE HISTORY: The property was platted as the Greenwich Business Center Addition with LI zoning in 2005. The Subdivision Committee approved the preliminary plat of the Firefly Way Addition for the subject property on July 14, 2016.

ADJACENT ZONING AND LAND USE:

NORTH: RR	Single-family residential and agricultural land
SOUTH: SF-5	Single-family residential
WEST: MF-18; LC; LI	Partially developed with apartments and destination retail
EAST: SF-5	Single-family residential

PUBLIC SERVICES: The site has access to 29th Street North, an unpaved arterial street with 100-foot right-of-way. The conditions of the Firefly Way Addition require paving of 29th Street North to a rural, asphalt mat standard from the end of the pavement to the west to the entrance of the subdivision. All utilities are available to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, *the Community Investments Plan*, identifies the site as New Residential Growth. The Plan encourages the full diversity of residential housing types and densities typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to single-family, duplexes, patio homes, townhouses, apartments and residential accommodations for the elderly. Elementary and middle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The site is located in a mixed use development area with apartments and destination retail in MF-18, LC, and LI zoning and SF-5 zoned single-family residential neighborhoods. Single-family residences are located to the east and south of the proposed Firefly Way Addition. The proposed MF-18 zoning abuts existing MF-18, LC and LI zoning to the west.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** SF-5 and MF-18 zoning would allow single-family residences, duplexes and multi-family units to be built, which is an appropriate use for urban residential development. The proposed development is separate and distinct from adjacent single-family neighborhoods and the proposed MF-18 zoning is buffered from existing single-family residences by proposed SF-5 zoning on the subject property.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested SF-5 zoning allows single-family residences by right and MF-18 zoning allows single-family, duplexes and multi-family by right. This zoning is a good buffer between the LC and LI zoning to the west of the subject property and the SF-5 zoning to the east and south of the subject property.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, multi-family and some (but not limited to) institutional uses such as a parks, schools and churches. The proposed rezoning further restricts uses on the property, as it is currently zoned LI.

- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, *the Community Investments Plan*, identifies the site as New Residential Growth. The Plan encourages the full diversity of residential housing types and densities typically found in a large urban municipality. The range of housing densities and types includes, but is not limited to single-family, duplexes, patio homes, townhouses, apartments and residential accommodations for the elderly. Elementary and idle schools, churches, playgrounds, small parks and other similar residential-serving uses are located in these areas. As such, the SF-5 and MF-19 zoning of the Fire Fly Way Addition conforms to the future growth concept prescribed by the Community Investment Plan.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities will be addressed through the platting process, including the pavement of 29th Street North and the extension of water and sanitary sewer services.

KATHY MORGAN, Planning Staff presented the Staff Report.

RICHARDSON commented that it would be helpful to see what the new plat looked like; the one that was approved by the Subdivision Committee.

FOSTER asked then the plat attached to the Staff Report will be changed.

MORGAN suggested that the agent could address the questions concerning the latest plat.

RUSS EWY, BAUGHMAN COMPANY, P.A. , 315 ELLIS, AGENT FOR THE APPLICANT said they were asked to prepare two different plats: one with how the potential zone changes impact the existing plat and one that conforms to the preliminary plat that is on file with the Planning Department. He said they will take care of the split zoning issue if the Planning Commission approves the zoning request.

FRANK MESSINGER, 12100 E. 29TH ST., NORTH said his father lived across the street from the proposed development. He mentioned that when the electric substation went in more than three years ago his parent came to the Commission to speak against it because they believed the electro-magnetic fields caused leukemia. He said his mom died of leukemia which might just be a coincidence. He said this is tearing his farther up knowing these apartments are going in across the street from him. He said his dad moved out into the country to get away from that. He said he knows you can't stop progress. He said they would like some kind of buffer to protect his father's property from this because this is driving him crazy. He said his dad put a lot of money into his home. He said he understands the landscape buffer is a tree every 40 feet and that is not enough. He asked the Commission to do the right thing. He asked if there are going to be apartment complexes or duplexes at the location.

RICHARDSON said they would ask the applicant or agent to clarify specifically what was being proposed for the site.

FOSTER explained that Reserve G will have open space for drainage and a five foot masonry wall along 30% of the stretch across the street from his father's property.

MESSINGER said that is not what he was told by the agent and staff. He said once the LI zoning is changed, the wall and buffer go out the window. He asked if the Commission was going to continue to require the wall and buffer once the zoning was changed to apartments.

FOSTER said the Commission would get clarification from the applicant.

RUSS EWY, BAUGHMAN COMPANY, PA, AGENT FOR THE APPLICANT said his understanding is that the northern loop area at Pepperwood Street would have one lot on the final plat for an apartment complex, with duplexes on the southern Block A, lots 22-40 with potential for a duplex as well on Block D. He said a multi-family development does need to provide some type of buffering or landscaping along 29th Street.

FOSTER clarified that the Landscape Ordinance does require buffering because it is a more intense use across from RR. He asked the agent to explain the wall easement. He said he feels there is a conflict with the required tree planting requirement because of a drainage easement.

EWY said that is platted that way as a “place holder” to develop a mix of various types of walls and landscaping in and around the perimeter so it does not interfere with the utility provision. He said the Commission could make a provision for a screening wall as part of the motion.

KNEBEL clarified if they develop multi-family along 29th street the landscaping requirement is referred to as a landscape street yard which is a landscaped area that has trees, the size of which depends on the depth of the lot.

MOTION: To approve subject to staff recommendation.

TODD moved, **WARREN** seconded the motion, and it carried (8-1). **FOSTER** – No.

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7. **Case No.: ZON2016-00035 and CON2016-00040** - City zone change from SF-5 Single-family Residential to LC Limited Commercial and City Conditional Use to permit a Nightclub/Event Center on SF-5 Single-Family Residential zoned property on property described as:

CHAIR NEUGENT reported that the case was deferred.

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8. **Case No.: ZON2016-00036 and CUP2016-00027** - Entertainment Enterprises, Inc. (Richard Leslie) and Baughman Company, PA (Russ Ewy – agent) request a City zone change from SF-5 Single family Residential to GC General Commercial and creation of Community Unit Plan CUP DP-341 The Cotillion Ballroom Commercial Community Unit Plan on property described as:

A portion of the Southeast Quarter of Section 30, Township 27 South, Range 1 West of the 6th Principal Meridian, Sedgwick County, Kansas, more particularly described as follows: Commencing at the intersection of the North line of U.S. Highway 54 and the West line of said Southeast Quarter; thence North along the West line of said Southeast Quarter 832.16 feet for a Point of Beginning; thence East, 331.05 feet; thence North, 178.24 feet; thence East, 298 feet to the Northeast Corner of Lot 3, Block 1, Doonan Plaza II Addition, Sedgwick County, Kansas; thence North parallel with the West line of said Southeast Quarter, 650 feet; thence West parallel with the North line of said Southeast Quarter, 629.05 feet, more or less, to a point on the West line of said Southeast Quarter; thence South along the West line of said Southeast Quarter to the Point of Beginning.

Entertainment Enterprises, Inc. (Richard Leslie) / Baughman Company (Russ Ewy)

BACKGROUND: The applicant is requesting GC General Commercial zoning for a portion of subject property currently zoned SF-5 Single-Family Residential and the creation of the Cotillion Ballroom Community Unity Plan (CUP DP-341). The application area is 10.74 acres that is located 1,000 feet north of Kellogg, north of Doonan Trucks and Eddy's Chrysler Dodge Jeep Ram car sales, west of Maize Road. The subject property is currently developed with The Cotillion Ballroom, which is a legal, non-conforming nightclub. The requested zone change and CUP will establish a conforming use if approved. It is also proposed that all uses in the GC district be permitted except for a list of specifically excepted uses, such as: adult entertainment, sexually oriented business and correctional placement residences. The complete list of excepted uses can be found in the proposed CUP, General Provision 12. The CUP contains one parcel.

The proposed CUP also requires:

- 1) Setbacks are as indicated on the CUP drawing.
- 2) Landscaping per City ordinance with modifications.
- 3) Maximum height of light poles, including fixtures, lamps and base, are limited to 24 feet except when located within 100 feet of residential zoning, which shall be 15 feet, except that existing light poles can remain.
- 4) In the event of change of use, rooftop mechanical equipment is to be screened from ground level view with similar materials to the main building.
- 5) Screening walls around the perimeter of the CUP where adjacent to residential zoning shall not be required. The existing wood screening along Emilia Street, where indicated on the plan shall be maintained. Future expansion of the parking lot within the northern, or northeastern portions of Parcel 1 shall trigger the requirement of a 6 to 8-foot screening fence along those property lines.
- 6) Parking is to be per code.
- 7) Signs are to be per code, except that the existing off-site sign located along Kellogg shall be permitted to stay. Portable, billboards, LED and off-site signs are not permitted within Parcel 1.

Land located to the north of the subject property is undeveloped and zoned SF-5 and is under the same ownership as the requested zone change and proposed CUP. Land located to the east is zoned SF-5 and developed with single-family residences. South of the subject property are LI Limited Industrial zoned lots developed with vehicle sales and services. Land west of the subject property is located in the county and is zoned LI and SF-20 Single-Family Residential and is occupied by Brady's Nursery.

CASE HISTORY: The site is unplatted and currently developed with a legal, non-conforming nightclub.

ADJACENT ZONING AND LAND USE:

North: SF-5	Undeveloped
South: LI	Vehicle sales and service
East: SF-5	Single-family residences
West: LI, SF-20	Landscaping and nursery business

PUBLIC SERVICES: Municipal services are currently provided to the subject property. Access to the subject property is from signalized intersection on Kellogg at 111th Street West through a private access easement across the abutting property to the south.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Future Growth Concept Map” in the “Community Investments Plan” identifies the subject property as “Commercial.” Properties with the “Commercial” designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The “Locational Guidelines” of the “Community Investments Plan” support the expansion of existing uses and encourage major destination areas that generate high volumes of traffic to be located in close proximity to major arterials or highways.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that the request be **APPROVED** subject to the following conditions:

- 1) Approve the zone change and the Community Unit Plan DP-341 subject to the development standards contained therein.
- 2) Proof shall be provided to planning staff that notice of the development standards contained in CUP DP-341 has been filed on the application area with the register of deeds.
- 3) The applicant shall submit four copies of the approved CUP to planning staff within 60 days after approval by the governing body, or the request shall be considered null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located to the north of the subject property is undeveloped and zoned SF-5 and is under the same ownership as the requested zone change and proposed CUP. Land located to the east is zoned SF-5 and developed with single-family residences. South of the subject property are LI Limited Industrial zoned lots developed with vehicle sales and services. Land west of the subject property is located in the county and is zoned LI and SF-20 Single-Family Residential and is occupied by Brady’s Nursery.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently operating as a legal, non-conforming nightclub in the city. The zone change and creation of a new CUP will establish a conforming use on the subject property.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The development standards associated with the CUP and the zoning code will minimize detrimental impacts of the proposed development. Code requirements include solid screening, landscape buffers, maximum building heights below base zoning standards and maximum gross floor area limitations.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will not significantly impact the neighborhood. Denial would result in a legal, non-conforming use of the property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2035 Wichita Future Growth Concept Map” in the “Community Investments Plan” identifies the subject property as “Commercial.” Properties with the “Commercial” designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The “Locational Guidelines” of the “Community Investments Plan” support the expansion of existing uses and encourage major destination areas that generate high volumes of traffic to be located in close proximity to major arterials or highways.
6. Impact of the proposed development on community facilities: The development standards contained in the CUP will ensure that required community facilities are in place or are installed.

KATHY MORGAN, Planning Staff presented the Staff Report.

RUSS EWY, BAUGHMAN COMPANY, P.A. 315 ELLIS, AGENT FOR THE APPLICANT said the applicant was looking to expand their license in order to allow patrons to bring their cocktails out of the Cotillion onto a smoking patio. He said they were told they needed to get a conditional use for a nightclub. He said during that process it was determined that the northern 25% of the Cotillion was zoned SF-5 and the balance of the property was zoned GC. He said it was noted that they needed to take care of that non-conformity and once they applied for additional commercial property, it was noted that the area exceeded the acreage requirements which necessitated the need for a zoning change and creation of a new Community Unit Plan. He referred to an aerial of the site. He said although the Cotillion owns everything up to the hedgerow, they are not seeking any changes north of the line indicated on the site plan. He said the CUP conditions hold the Cotillion to its existing form today. He said the applicant is not looking to expand outside the building, have music outdoors, build other buildings, expand parking or change access to the venue. He said after talking with area residents he suggested that the CUP have a requirement that an amendment be required for any commercial development other than surface parking.

RICHARDSON asked if the area was platted. He also asked about access controls on the east side of the property.

EWY said no, the area is not platted. He added that they would be willing to dedicate access controls on the east side by a separate instrument.

KNEBEL said the CUP allows the nightclub which does not differentiate between inside and outside.

RICHARDSON said so theoretically with the CUP you could have outside entertainment.

EWY said specifically within the smoking area and the CUP states that.

FOSTER asked if the southwest entry was public or private and how it gets maintained if there are several owners.

EWY said that entrance is private and there are restrictive covenants regarding maintenance.

TIFFANY OLTSENBRUNS, 10505 WEST RINGER STREET, PRESIDENT CALFSKIN NEIGHBORHOOD ASSOCIATION asked what platted or non-platted means. She said the neighbors are concerned about expansion and have received two different pieces of information concerning outside drinking and paving of the streets. She also asked about the term “housekeeping” and how the drinking outside is going to affect the neighbors.

CHAIR NEUGENT asked staff to provide a simple explanation of platted versus non platted land.

DIRECTOR MILLER explained that platting is the process where raw ground with a metes and bounds description is divided into lots as part of a subdivision and given a legal description. He said for example after a property is platted the description would be Dales Addition, Lot 1, Block 2, which is how the City acquires utility easements, road right of way, etc.

FOSTER confirmed that according to the agent’s comments, they are not proposing any expansion, just what is there today.

OLTSENBRUNS asked about future expansion.

CHAIR NEUGENT said any future expansion would require a building permit, which would trigger the platting requirement.

DIANE LOUX, 1250 S. EMELIA STREET said once the zoning is changed the applicant can expand and rebuild the Cotillion at the back of the area. She said that field is much lower than the rest of the area and it drains when they get rain so any development will be detrimental to the entire neighborhood. She said they have to deal with the noise because the doors are open spring and fall and they can feel the base guitar. She said it was mentioned that there is no entrance to Emelia but people park along Emelia and jump the fence. She said the applicant doesn’t maintain the fence now and added that there are no trees or buffer towards Emelia Street. She said when she bought her home 6 years ago they were told there would be expansion because the adjacent property was zoned SF-5, but if this happens her house will be worthless. She said she will lose her property value if this is allowed. She said the applicant can expand and all they have to do is put up a 6-8 foot screening fence. She urged the Commission to deny the request. She said there is no reason to have drinks outside and there is adequate parking at the site now. She said if they are not expanding the building this is not required.

RICHARDSON clarified that the property across from the speaker is not involved in this case.

LOUX commented that they had no idea the extent of what was being proposed because all they heard about was paving the parking lot and allowing drinks outside. She said this allows the applicant to put lights on poles that will shine into their bedrooms. She said more people from the Calfskin Neighborhood would have been present if they knew what was being pushed through here.

FOSTER commented on the CUP including buffering requirements, shielding of light poles within 100 feet or residential, etc.

LOUX indicated the neighbors are already putting up with a lot from the Cotillion and that she hoped the Commission considered the neighbors in their decision.

CINDY CORN, 1420 S. FIELDCREST complained about the noise and lights from businesses in the area. She said they bought their home in 1989 and thinks it is sad that they have to accommodate patrons at the Cotillion. She asked about building a new fence and asked if they could request that a hedgerow be put in between Emelia and the Cotillion to help muffle the noise. She said this opens this up to the possibility of rezoning or additional features happening down the road. She asked the Commission to listen to the neighbors and reconsider this.

DAILEY asked the speaker if they knew the Cotillion was there when they moved out there.

CORN responded yes, but that the noise level and lights have changed over the years,

MIKE LOUX, 1250 S. EMELIA STREET said they are concerned about any water from the proposed paving because they have dealt with flooding in the area before and he is not real confident that the City knows where to put water. He said the neighbors maintain the grassy area and wooden fence because the applicant does nothing to maintain the area outside the fence. He added that there is no barrier in the parking lot to stop the drunks from driving into the field and ending up in the neighbor's ditches or backyards. He also complained that the City does not maintain the drainage ditches in the area, the neighbors have to do that. He said they also have to deal with vandalism and traffic tie ups on Kellogg and 111th St. He said the neighbors mow at least twice a year because right now there is no maintenance over there.

JERRY UNRUH, 1300 EMELIA said electronic music is louder and he has heard gun shots in the parking lot. He asked why the applicant needs all of the area and said he was concerned about the wetlands.

FOSTER asked what the speaker felt would be an appropriate barrier between the venue and Emelia Street.

UNRUH suggested some type of masonry fence or barrier of some kind.

JOHN KEISER said he lives on the corner of Glendale and Emelia. He said he doesn't understand why the whole area needs to be rezoned if all they are doing is repaving a parking lot unless they are anticipating an exit out of the parking lot onto Emelia, which would be totally unacceptable. He reiterated complaints about patrons of the Cotillion parking along Emelia and kicking down the fence to gain access, increased noise, tow trucks at 1:00 a.m. in the morning trying to pull someone out of the bean field, no maintenance of the outside area by the Cotillion and how the neighborhood has maintained the fence and mowed grass in the area.

JUNE JOHNSON, 1226 S. FIELDCREST asked why this wasn't taken to the DAB first and wasn't that the normal procedure. She concluded by saying that she agreed with everything else that has been said.

DIRECTOR MILLER explained that the Planning Commission meets twice a month and the DAB meets once a month. He said staff has been given direction not to delay applications so they can go to DAB first.

KNEBEL added that the item will go to the DAB on September 12, 2016.

EWY said if they need a separate provision that states they are not expanding anything including the parking lot they can add that to the CUP. He said dedication of access control would insure that there is no access from the parking lot to the residential area to the east. He said they can clarify cut off luminaries on any light poles permitted within 100 feet of residential zoning. He said they have already offered a 300 foot building setback from the east and north property lines to insure that no buildings are built and they can provide a general provision that any expansion of parking into the northeast quadrant would require an amendment to the CUP.

FOSTER clarified that according to the Landscape Ordinance, no landscaping is required with this change.

EWY said that is correct.

FOSTER mentioned the neighbor's concerns regarding buffering with solid screening and said he thinks some type of barrier needs to be considered.

KNEBEL said since the application is across the street, the "landscape street yard" is what would be required to comply with the Landscape Ordinance.

EWY said the only way to provide a barrier would be to provide some type of wood screening fence along the edge of the existing paved parking area.

FOSTER said he might need clarification from the neighbors, but right now he is only talking about the eastern portion of the parking until platting addresses it further.

RICHARDSON asked if the applicant would be willing to provide a fence on the north side of parking and east side of the north lot.

EWY said if that is something the Planning Commission would like to recommend, it is something the applicant can address later on.

WARREN said he was willing make a motion and requested that staff clarify the amendments.

KNEBEL said the agent offered no expansion of the parking lot without an amendment to the CUP; dedication of access control onto Emelia Street; cut off light luminaries on the light poles; and 300 foot building setbacks from the north and east property lines.

MOTION: To approve subject to staff recommendation in addition to no expansion of the parking lot without an amendment to the CUP; dedication of access control onto Emelia Street; cut off light luminaries on the light poles; and 300 foot building setbacks from the north and east property lines

WARREN moved, **TODD** seconded the motion.

FOSTER said he believes the Commission needs to address the concerns expressed by the neighbors. He suggested a masonry wall on the east side of the parking lot.

RICHARDSON commented that the Cotillion has been there since around 1960 which he believes is about the same time most of the houses in the area were built. He said he believes the Commission has helped in some sense by insuring that there will be no access onto Emelia Street.

The **MOTION** carried (7-2). **ELLISON** and **FOSTER** – No.

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9. **Case No.: ZON2016-00037 and CUP2016-00028** - City zone change from SF-5 Single-family Residential and GO General Office to LC Limited Commercial and amendment of the Highland Springs CUP DP-233 on property described as:

CHAIR NEUGENT reported that the case was deferred.

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10. **Case No.: CON2016-00024** - Ast Investments, c/o Kelly Ast (applicant/owner) and Stephen M. Joseph (agent) request a City Conditional Use to permit a Tavern/Drinking Establishment/ Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property on property described as:

The West 445 feet of lot 1, Northgate Center Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial (LC) zoned site is located on the northeast corner of West 33rd Street North and North Arkansas Avenue. Joyce's Club and Deli, a tenant of the multi-tenant 25,997-square foot commercial strip building (built 1962) has requested a Conditional Use for a nightclub in the city. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. SF-5 Single-Family Residential (SF-5) zoned properties abut and are adjacent to the north and west (across Arkansas Avenue) sides of the site. The SF-5 zoned Martin Ortiz Elementary School is located approximately 90 feet southwest of the site, across Arkansas Avenue. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. However, the applicant has stated that the site has been either a tavern, drinking establishment or nightclub prior to the current UZC, which came into effect in 1996. The proposed nightclub, Joyce's Club and Deli, currently has a Drinking and Eating Restaurant (DER) license. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC and to obtain an entertainment license.

The applicant's site plan is an aerial. Staff counted 142 on-site parking spaces. The posted occupancy of the proposed nightclub/Joyce's Club and Deli is 87 people. The proposed nightclub also has a fenced and gated area located on the north/back side of the building. The proposed nightclub requires 44 total on-site parking spaces; one on-site parking space per two occupants. The other tenants of the commercial strip building are a barber shop, a second hand store, an army surplus store, Elks Lodge #427, and in the largest space (6,048-square foot, which used to be a grocery store) what appears to be a used home goods and appliance store. Parking for the other tenants cannot be determined with the information provided by the applicant. However, all of the other current uses, with the exception of the Elks Lodge, can be classified as retail or second hand stores, office and personal improvement service, all of which require one on-site parking space per 333-square feet of building. The fraternal organization Elks Lodge is classified as Class A Club, which may require one parking space per two occupants. A 1,326-square foot stand-alone restaurant (built 1964) is also located on the site, which requires one parking space per three occupants.

The abutting north property is under one ownership, but is split by zoning, with a LC zoned single-family residence (built 1930) on the west portion and the remaining eastern portion zoned SF-5. The dead-end, north-south, unimproved residential street Jackson Avenue abuts the rest of the north side of the site. A SF-5 zoned single-family residential neighborhood (built early to mid-1950s) is adjacent to the northeast side of the site. A LC zoned contractor's warehouse and a LC zoned residence (built 1920) are located further northwest of the site, across Arkansas Avenue. Undeveloped LC zoned property abuts the east side of the site. A SF-5 zoned single-family residential neighborhood is located southeast of the site, across 33rd Street North and the Chisholm Creek drainage channel. The already noted SF-5 zoned United School District 259's (USD) Martin Ortiz Elementary School is located southwest of the site, across 33rd Street North and Arkansas Avenue. A MF-29 Multi-Family Residential (MF-29) zoned single-family residential development (built late 2000s) and SF-5 single-family residences (built 1920s-1940s) are located south of the site across 33rd Street North. Two LC zoned office-warehouse (built 1947, 2007) are also located south of the site, across 33rd Street North.

CASE HISTORY: The proposed nightclub is part of the west 445 feet of Lot 1, Northgate Center Addition, which was recorded with the Sedgwick County Register of Deeds May 15, 1964. The property was rezoned from R-1 (now SF-20 Single-Family Residential) to LC on October 23, 1958. The property was annexed into the City between 1961 and 1970. On May 11, 1961, Conditional Use request CU-49 permitted a ‘trampoline center’ on the part of the property that is currently a stand-alone restaurant. CON2012-00031 was a denied Conditional Use request for an event center with the option of providing alcohol and entertainment in the commercial strip building’s 6,048-square foot space that used to be a grocery store. The proposed nightclub, Joyce’s Club and Deli, was noted in the CON2012-00031 report as a tavern/drinking establishment. The LC zoned property the proposed nightclub is located on was recently sent notice for an outdoor storage violation.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5, LC	Single-family residences
SOUTH: LC, MF-29, SF-5	Office-warehouse, single-family residences
EAST: LC	Undeveloped land, Chisholm Creek drainage
WEST: SF-5	Single-family residences, USD 259 elementary school

PUBLIC SERVICES: 33rd Street North is a two-lane collector street at this location. Arkansas Avenue is a two-lane minor arterial street at this location. The site has direct access to both of these roads. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern for the area is mostly SF-5 zoned single-family residences and a MF-29 zoned single-family residential neighborhood all developed around the SF-5 zoned USD 259 Martin Ortiz Elementary School. The LC zoned property where the proposed nightclub is located contains the only retail/personal improvement services types of activity in the area. The other LC zoned properties in the area are two single-family residences and two properties listed by the appraiser office as (small) warehouses. The applicant has stated that the site has been either a tavern, drinking establishment or nightclub prior to the current UZC, which came into effect in 1996. The proposed nightclub is relatively small (posted occupancy of 87) and could continue to operate as a DER if the application is denied.

There is a paved drive located on the north side of the commercial strip building the proposed nightclub is located in. The dead-end, north-south, unimproved residential street Jackson Avenue abuts a portion of the north side of the site and it could provide access to the north abutting single-family residential neighborhood, via the paved drive. There is a section of a wooden privacy fence separating an east portion of the north abutting single-family residential neighborhood from the LC zoned property the proposed nightclub is located in. There is no screening around the dumpster and it (via a visit to the site by staff) appears to be located closer than 20 feet to the north abutting SF-5 zoned single-family residences. Because the site is completely paved over there is no opportunity for landscaping.

RECOMMENDATION: Approval of the Conditional Use would confer compliance with the current UZC on an existing tavern/drinking establishment that, based on its history of not having a Use Exception or a Conditional Use, may have been established prior to the 1996 adoption of the UZC. As such, approval would not introduce a new use into the area. If denied the applicant could continue to operate as a DER. It is unknown how the site's past history as a drinking establishment or nightclub will affect the neighbors' opinion of the current application. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) The applicant shall provide the legal description of the area used as a nightclub (currently Joyce's Club and Deli) and the associated parking for the Conditional Use Resolution of the proposed nightclub on a Word document via E-mail to the planner. This must be provided no later than 30 days of approval by the MAPC.
- (2) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces, locating dumpsters 20 feet from the north abutting SF-5 zoned properties, solid screening with a solid screening gate around the dumpsters, and a solid wooden fence along the north property line. The site plan must be submitted for review within 60-days of approval by the MAPC or, as applicable, the appropriate governing body.
- (3) No outdoor speakers or outdoor entertainment are permitted.
- (4) The Conditional Use shall not be in effect until a solid wooden fence is installed along the north property line of the west 445 feet of Lot 1, Northgate Center Addition. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
- (5) The Conditional Use shall not be in effect until the required parking is determined for the west 445 feet of Lot 1, Northgate Center Addition and any adjustments or variances are needed to resolve the required parking is completed. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
- (6) The Conditional Use shall not be in effect until the dumpsters are located 20 feet from the north abutting SF-5 zoned properties and solid screening (as defined in the UZC) with solid screening gates are installed around the dumpsters. This must be completed within 90 days of approval by the MAPC or, as applicable, the appropriate governing body or the Conditional use shall be declared null and void.
- (7) The applicant shall obtain all required state, local and other applicable permits and inspections.

- (8) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The development pattern for the area is mostly SF-5 zoned single-family residences and a MF-29 zoned single-family neighborhood all developed around the SF-5 zoned Martin Ortiz Elementary School. The LC zoned property where the proposed nightclub is located contains the only retail/personal improvement services types of activity in the area. The other LC zoned properties in the area are two single-family residences and two properties listed by the appraiser office as (small) warehouses.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. If approved the request would establish a drinking establishment – nightclub as a conforming use on the site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** SF-5 and MF-20 zoned single-family residences are either abutting or located within 75 feet of the site, plus there is a public school located 80 feet of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the residential neighborhood.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “Community Investment Plan’s 2035 Wichita Future Growth Map” depicts the site as “commercial.” The commercial designation encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, residential uses. A nightclub is an appropriate use of the commercial designation.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern for the area is mostly SF-5 zoned single-family residences and a MF-29 zoned single-family residential neighborhood all developed around the SF-5 zoned USD 259 Martin Ortiz Elementary School. The LC zoned property where the proposed nightclub is located contains the only retail/personal improvement services types of activity in the area. The other LC zoned properties in the area are two single-family residences and two properties listed by the appraiser office as (small) warehouses. The

applicant has stated that the site has been either a tavern, drinking establishment or nightclub prior to the current UZC, which came into effect in 1996. The proposed nightclub is relatively small (posted occupancy of 87) and could continue to operate as a DER if the application is denied.

There is a paved drive located on the north side of the commercial strip building the proposed nightclub is located in. The dead-end, north-south, unimproved residential street Jackson Avenue abuts a portion of the north side of the site and it could provide access to the north abutting single-family residential neighborhood, via the paved drive. There is a section of a wooden privacy fence separating an east portion of the north abutting single-family residential neighborhood from the LC zoned property the proposed nightclub is located in. There is no screening around the dumpster and it (via a visit to the site by staff) appears to be located closer than 20 feet to the north abutting SF-5 zoned single-family residences. Because the site is completely paved over there is no opportunity for landscaping.

- (5) **Impact of the proposed development on community facilities:** It is possible that approval of this request could result in an increased demand for police services.

BILL LONGNECKER, Planning Staff presented the Staff Report.

He reported that DAB VI recommended approval of the application 8-0.

STEPHEN JOSEPH, 500 NORTH MARKET, AGENT FOR THE APPLICANT said they accept the conditions in the Staff Report. He said this is a neighborhood bar that has been there forever and is grandfathered in as a non-conforming use. He said the purpose of the conditional use request is to bring this into conformance with the zoning.

MOTION: To approve subject to staff recommendation.

DOOL moved, **TODD** seconded the motion, and it carried (8-0).

- 11. **Case No.: CON2016-00033** - City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property, generally located Northeast of East Harry Street and South Webb Road. (1520 S. Webb Rd - Wichita Pizza Co.)

CHAIR NEUGENT reported that the case had been withdrawn.

- 12. **Case No.: CON2016-00034** – City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property, generally located Northeast of East Harry Street and South Webb Road. (1530 S. Webb Rd. - Auntie Mae's)

CHAIR NEUGENT reported that the case had been withdrawn.

13. **Case No.: CON2016-00035** - Homer Morgan Revocable Trust, c/o Homer Morgan (applicant/owner) and Stephen M. Joseph (agent) request a City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LC Limited Commercial zoned property described as:

All of lot 2 EXCEPT beginning 28 feet West of the Southerly most Southeast corner, thence West 22 feet, thence Northwest 65.66 feet, thence North 46.25 feet, thence East 87 feet, thence South 56 feet to the point of beginning together with that part of lot 1 beginning at the Northeast corner, thence South 48 feet, thence West 17.5', thence North 48 feet, thence East 17.5 feet to the point of beginning, all in Block 1, Park Meadow Estates Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The LC Limited Commercial (LC) zoned site is located northeast of East Harry Street and South Webb Road. When a LC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Code (UZC), Sec.III-D6.w. TF-3 Two-Family Residential (TF-3) zoned duplex development is located approximately 165 feet east –northeast of the site, thus the Conditional Use request. There is no history of a Use Exception or Conditional Use for a tavern, drinking establishment or nightclub on this site. The applicant has stated that a portion of the one-story commercial building (built 1981, 1989) has been a tavern, drinking establishment or nightclub for at least 20-years. The applicant is applying for a Conditional Use for a nightclub to get the site in conformance with the UZC. The site has a current drinking establishment and entertainment license.

The applicant's site plan is an aerial. The applicant has stated that the proposed nightclub occupies approximately 55% (4,937-square feet) of the 8,976-square foot one-story commercial building with the remaining square footage being occupied by a liquor store and maybe (as observed by staff during an on-site look) a small nail salon.

- (a) As counted by staff, the aerial shows approximately 62 on-site parking spaces.
- (b) The Fire Department has a posted occupancy rate of 173 people for the current non-conforming nightclub.
- (c) The non-conforming nightclub requires 89 on-site parking spaces; one on-site parking space per two nightclub customers.
- (d) The building's remaining 4,039-square feet for liquor store and nail salon require 13 on-site parking spaces; one parking space per 333-square feet for retail and personal improvement service.
- (e) The non-conforming nightclub also has a small outside seating area for customers that has not been provided that is needed for the calculations for parking*.
- (f) The tentative* required total of 102 on-site parking spaces exceeds the site's current 62 total parking spaces by at least 40 parking spaces.

- (g) The applicant will need to apply for either a variance, an administrative adjustment, an off-street parking agreement or a combination to meet the UZC's parking standards. The UZC requires off-street parking space to be located no more than 600 feet from the building or use it is intended to serve, measured along the shortest legal, practical walking route. The applicant owns the abutting north and northeast properties, which have improved parking lots.
- (h) The retail operational hours are largely different than the non-conforming nightclubs hours.

LC zoned businesses abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5 Single-Family Residential (SF-5), TF-3 and GO General Office (GO) zoned single-family residential, duplex, multi-family residential and office types of development. A LC zoned Intrust Bank (built 1978) with drive-thru service abuts the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), an Auto Zone car parts store (built 1996), a Walgreens pharmacy (built 2000) and an auto parts store and assorted fast food restaurants are located south of the site, across Harry Street. A vacant Walmart Local Neighborhood Market is located south of the site, across Harry Street. A LC zoned Dillon's grocery store with a gas island (built 1995) and a small commercial strip building (built 2006) are located west of the site, across Webb Road. The already noted TF-3 zoned duplex development is located approximately 165 feet east –northeast of the site. A LC zoned full service restaurant (Felipe's Jr. DER) abuts the east side of the site. LC zoned self-storage warehouses are located east of the DER. A LC zoned commercial strip building (built 1991) and a free standing vacant commercial building (built 1999, formerly a restaurant called Auntie Maes) abut the north side of the site*. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site.

NOTE: Besides this Conditional Use, CON2016-00035, to bring an existing nightclub into conformance with the UZC, the same applicant has two other Conditional Use applications for nightclubs on the already noted two abutting north properties.* There is total of three requests for nightclubs on abutting properties all owned by the applicant and all are on the August 18, 2016, MAPC and the August 8, 2016, DAB II agendas. CON2016-00033 is for a new nightclub on a LC zoned commercial strip building for one tenant of multiple tenants. The application is for a current tenant that is restaurant with a DER license. CON2016-00034 is for a new nightclub in the free standing vacant commercial building that used have restaurant with a DER license. A consideration on all of the properties is the amount of on-site parking available compared to the UZC's required on-site parking for a nightclub.

As counted by staff on the aerial/site plan provide by the applicant, the total on-site parking for the three abutting properties is 231. The tentative required parking for the three properties if all of the nightclubs are approved is 243-252. Staff is recommending denial of CON2016-00034 because it would create a new nightclub that abuts TF-3 zoned duplex development (see staff report). Staff is also recommending that the 66 parking spaces on the northeast abutting CON2016-00034 site not be used for off-site parking for a nightclub because of the negative impact on the abutting TF-3 zoned duplex development. Subtracting those 66 parking spaces from the 231 parking spaces available leaves 165 parking spaces available for a revised required parking total of 174-183 parking spaces. The subject site, CON2016-00035, the Port of Wichita has the largest on-site parking deficit, needing a tentative additional 40 parking space. Those 40 parking spaces can be obtained from the CON2016-00033 commercial strip building site, leaving it with 63 parking spaces to serve its current multiple tenants. An adjustment or variance may be needed to resolve on-site parking.

CASE HISTORY: The site is located on a south portion of Lot 2, Block 1, Park Meadow Estates Addition to Wichita, Sedgwick County, Kansas. The Park Meadow Estates Addition was recorded at the Register of Deeds on August 18, 1976. The applicant has stated that a portion of the 8,976-square foot one-story commercial building (built 1981, 1989) has been a tavern, drinking establishment or nightclub on this site for at least 20-years. The site was annexed into the City between 1971 and 1980. Staff has received phone calls expressing concerns about the proposed nightclubs. The request was considered at the August 8, 2016, DAB II meeting and the DAB recommended denial. There were protesters present at the meeting.

ADJACENT ZONING AND LAND USE:

NORTH: LC, GO	Commercial strip building, commercial building, condominiums
SOUTH: LC, SF-5, GO	Convenience store, auto parts sales, fast food restaurants, vacant building, undeveloped land
EAST: LC, TF-3	Restaurant, self-service warehouse, duplexes
WEST: LC, TF-3	Grocery store with gas island, garden apartments, commercial strip building

PUBLIC SERVICES: The site has access off the paved four-lane, with a center turn lane and right-hand turn lanes, arterials Harry Street and Webb Road. Both streets have short full curbed medians. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2035 Future Growth Concept Map” shows the site as “new residential/employment mix.” This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. A moderately low density TF-3 zoned duplex development is the closest residential development to the site, located approximately 165 feet east – northeast of the site. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight, and odor. Noise, trash, traffic and increased police activity are commonly noted negative impacts on abutting or adjacent residential properties.

A nightclub is better located in the “commercial” category, which reflects the full diversity of commercial development intensities and types typically found in a large urban municipality and are typically buffered from lower density residential areas by higher density housing types.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is a mix of two LC large box retail stores (one vacant) and small LC zoned businesses located along the intersection of Harry Street and Webb Road. The LC zoning and development ends where it abuts or is adjacent SF-5, TF-3 and GO zoned single-family residential, duplex, multi-family residential and office types of development. TF-3 zoned duplexes are located approximately 165 feet east, northeast of the site, thus the Conditional Use request. However, there are no less intrusive businesses or higher density residential uses located between the proposed nightclub and the TF-3 zoned duplexes. This proximity could be a potential source of nuisance for the residential zoned/developed properties. The subject site and the adjacent

duplex neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the adjacent duplex neighborhood. The applicant needs a maximum of an additional 40 parking spaces. The applicant owns the two abutting north and northeast properties and he will need to apply for either a variance, an administrative adjustment, an off-street parking agreement or a combination to meet the UZC's parking standards. The applicant's abutting northeast property (a vacant restaurant) abuts the noted TF-3 zoned duplex development, which makes it a less attractive option for the needed off-site parking.

RECOMMENDATION: Approval of the Conditional Use would confer compliance with the current UZC on an existing nightclub that, based on its history of not having a Use Exception or a Conditional Use, may have been established prior to the 1996 adoption of the UZC. As such, approval would not introduce a new use into the area. If denied the applicant could continue to operate as a non-conforming nightclub, per the UZC's Non-Conforming policies. Approval would bring the nightclub into conformance with the current UZC and relieve the applicant the burden of maintaining the site's non-conforming rights. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

- (1) The site shall be developed with an approved revised site plan, showing, but not limited to, the required parking spaces and solid screening gate around dumpsters. Outdoor seating is permitted. No outdoor speakers or entertainment is permitted. The site plan must be submitted for review within 60-days of approval by the appropriate governing body or the Conditional Use will be declared null and void.
- (2) No off-site parking allowed on the abutting northeast LC zoned property that has the vacant one-story commercial building, site of CON2016-00034. Post signs declaring "No Bar Parking" on the west side of this site. These signs must be installed within 30-days of approval by the appropriate governing body or the Conditional Use will be declared null and void. The location of these signs must be shown on the revised site plan. For the purpose of this Conditional Use request, provide a legal description of that portion of Lot 2, Block 1, Park Meadow Estates Addition that matches the site plan for CON2016-00034.
- (3) The applicant shall provide written agreements for off-site or shared parking, an administrative adjustment, a variance or a combination to resolve the need for at least 40 additional parking spaces. The applicant needs to provide the number of outside seating, which will increase the number of needed parking spaces above 40. Parking shall be resolved as prescribed within 90-days of approval by the appropriate governing body or the Conditional use will be declared null and void.
- (4) The applicant shall obtain all required state, local and other applicable permits and inspections.
- (5) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** LC zoned businesses abut the four corners of the arterial Harry Street – Webb Road intersection ending at abutting or adjacent SF-5, TF-3 and GO zoned single-family residential, duplex, multi-family residential and office types of development. A LC zoned Intrust Bank (built 1978) with drive-thru service abuts the south side of the site. A LC zoned Quik-Trip convenience store (built 2013), Auto Zone car parts store (built 1996), a Walgreens pharmacy (built 2000) and an auto parts store and assorted fast food restaurants are located south of the site, across Harry Street. A vacant Walmart Local Market is located south of the site, across Harry Street. A LC zoned Dillon’s grocery store with its gas station (built 1995) and a small commercial strip building (built 2006) are located west of the site, across Webb Road. A LC zoned commercial strip building (built 1991) and a free standing vacant commercial building (built 1999, formerly a restaurant called Auntie Maes) abut the north side of the site. TF-3 zoned duplexes are located approximately 165 feet east –northeast of the site. A LC zoned full service restraint (Felipe’s Jr. DER) abuts the east side of the site. LC zoned self-storage warehouses are located east of the DER. In driving the area staff could find no taverns, drinking establishments or nightclubs located within a mile of the subject site.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC, which is meant to accommodate retail, commercial, office and other complementary uses. If approved the request would re-establish a drinking establishment – nightclub on the site, as being in compliance with the current UZC.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** TF-3 zoned duplexes are locate approximately 165 feet east – northeast of the site, thus the Conditional Use request. There are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest duplex residences. This proximity could be a potential source of nuisance for the residential zoned properties. Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, the hours of the nightclub having a detrimental impact on the residential neighborhood and an increase in police activity.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2035 Future Growth Concept Map” shows the site as “new residential/employment mix.” This category encompasses areas of land that likely will be developed or redeveloped by 2035 with uses predominately of a mixed nature. Due to the proximity of higher intensity business uses, residential housing types within this area likely will be higher density. A moderately low density TF-3 zoned duplex development is the closest residential development to the site, located approximately 165 feet east – northeast of the site. Due to the proximity of residential uses, employment uses likely will have limited negative impacts associated with noise, hazardous emissions, visual blight, and odor. Noise, trash, traffic and increased police activity are commonly noted negative impacts on abutting or adjacent residential properties.

A nightclub is better located in the “commercial” category, which reflects the full diversity of commercial development intensities and types typically found in a large urban municipality and are typically are buffered from lower density residential areas by higher density housing types.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The development pattern in the area is a mix of two LC large box retail stores and small LC zoned businesses located along the intersection of Harry Street and Webb Road. The LC zoning and development ends where it abuts or is adjacent SF-5, TF-3 and GO zoned single-family residential, multi-family residential and office types of development. TF-3 zoned duplex development is located approximately 195 feet east, northeast of the site, thus the Conditional Use request. However, there are no less intrusive businesses or higher density residential uses located between the proposed nightclub and those closest single-family residences. This proximity could be a potential source of nuisance for the residential zoned properties. The subject site and the adjacent single-family residential neighborhood do not abut a common street, which lessens the possibility that the customers of the proposed nightclub will be parking in the abutting single-family residential neighborhood.

- (5) **Impact of the proposed development on community facilities:** It is possible that approval of this request could result in an increased demand for police services.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that the DAB II recommended denial of the application.

STEPHEN JOSEPH, 500 NORTH MARKET, AGENT FOR THE APPLICANT said the Port of Wichita Club has been at this location as a legal non-conforming use for over 40 years. He said at one time it qualified as a restaurant because it sold more food than alcohol. He said currently the owner wants to have live entertainment (his own band) and serve some food but probably not more than the 50% needed to qualify as a restaurant. He said they are asking for a conditional use permit and accept all the conditions listed in the Staff Report.

STEVE MANWEILER, 8225 N. OLIVER, VALLEY CENTER said he was not as opposed to this request as he was the two previous cases that were withdrawn. He said he owns property in the area on Global Circle and is not concerned if the establishments are going to operate in the same manner, but he said he was concerned about “creep.” He asked if this would make the request on the previous two cases more viable if this was approved. He said if that were to happen he would be concerned about noise, traffic, etc. He said this is income property for him and he wants to get his return on his investment. He said if he has vacancies and can’t fill them, he will lose revenue. He said his current tenants stay anywhere from 5-10 years at a time so he is concerned that his property maintain its current value as income property. He said he is as concerned for his tenants as he his own home.

WARREN said he sees each one of these cases as standing alone and does not see “creep” as being an issue. He said he thinks the three properties are different as night and day.

KNEBEL noted that staff did recommend denial of the two previous cases that were withdrawn.

STEPHEN JOSEPH commented that both previous cases that were withdrawn have drinking establishment licenses already.

MOTION: To approve subject to staff recommendation.

GREENE moved, **WARREN** seconded the motion, and it carried (8-0).

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14. **Case No.: CON2016-00039** - City Conditional Use to permit a Tavern/Drinking Establishment/Nightclub within 300 feet of residential zoning on LI Limited Industrial zoned property, generally located West of South Rock Road and south of East Harry Street (7707 E. Harry St.).

CHAIR NEUGENT reported that the case was deferred.

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15. **Case No.: CUP2016-00025** - Wheeler Trust; Brandon Hospitality, LLC; and Wichita Hospitality Group, LLC (owners/applicants); and Kaw Valley Engineering, Inc., c/o Tim Austin (agent) request a City request to create the Village at Greenwich Commercial CUP DP-340 on property described:

The Manhattan Addition, Sedgwick County, Kansas, EXCEPT that part platted as Village at Greenwich Addition, as Addition to Wichita, Sedgwick County, Kansas; ALONG WITH Lots 1-8, Lots 13-15, and Reserve A, Village at Greenwich Addition, an Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests creation of the Village at Greenwich Community Unit Plan (CUP) DP-342 (see attached) in existing LC Limited Commercial (LC) zoning located at the northeast corner of 21st Street North and Greenwich Road. The 19.25-acre site is developed with three strip shopping centers, two hotels, and a bank. Five (5) acres of the site remains undeveloped. The site is controlled by an agreement (see attached) with the City of Wichita establishing use restrictions and development standards. The agreement is recorded as a deed restriction on the site.

The applicant proposes to eliminate the deed restriction controlling development of the site and replace it with the proposed Village at Greenwich CUP. Other than updated code references, the only changes from the deed restriction proposed by the Village at Greenwich CUP are:

1. A reduction of the setback requirements along 21st Street North and Greenwich Road to match the setbacks established by the Village at Greenwich Addition.
2. An increase in the number of permitted monument signs from seven (7) to eleven (11). The number of proposed monument signs is still two (2) fewer than would be permitted by right in the LC district.

The site is located in the middle of a major commercial area along K-96 Highway. North of the site is zoned LC and LI Limited Industrial (LI) and is developed with a vehicle repair garage, big box retail, and commercial pad sites. South of site is a proposed 59 acre shopping center that is zoned LC and has two fast food restaurants and a bank developed on pad sites to date. East of the site is a 57 acre cemetery that is zoned LC and SF-5 Single-Family Residential (SF-5). West of the site is zoned LC and LI and is developed with a 70 acre shopping center developed with big box retail and commercial pad sites.

CASE HISTORY: The southwest portion of the site was zoned LC in 1958 when Sedgwick County established zoning within three (3) miles of the Wichita city limits. The remainder of the site was approved for LC zoning by the Sedgwick County Board of County Commissioners on December 13, 1995 (SCZ-0699). Approval of the expanded LC zoning was subject to platting the entire site, including a development agreement with the City of Wichita to provide for the extension of municipal services and establish use controls and development restrictions. The development agreement for the site was approved by the Wichita City Council on January 7, 1997, and the site was platted as The Manhattan Addition on February 21, 1997. A portion of the site was replatted as the Village at Greenwich Addition on September 30, 2008.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, LI	Vehicle repair, big box retail, commercial pad sites
SOUTH:	LC	Undeveloped, fast food restaurant, bank
EAST:	LC, SF-5	Cemetery
WEST:	LC, LI	Big box retail, commercial pad sites

PUBLIC SERVICES: 21st Street North and Greenwich Road are both section line arterial streets at this location with 60-foot half-width right of way (ROW), tapering to 75-foot half-width ROW at the intersection. Greenwich Road is a six-lane arterial with dual left turn lanes at 21st Street North and a single left turn lane into the major entrance to the site. Both intersections are signalized. 21st Street North is a six-lane arterial with a continuous center left turn lane. The CUP proposes three (3) access openings to 21st Street North, all of which have been constructed, and four (4) access openings to Greenwich Road, three of which have been constructed. Any remaining access opening to Greenwich Road is subject to the City of Wichita's Access Management Policy per the requirements of the CUP and plat. All utilities currently serve the site, and the CUP indicates that all utilities will be placed underground.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City Limits. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP be APPROVED, subject to the following conditions:

- A. The applicant shall record a CUP certificate with the Register of Deeds indicating that this tract (referenced as DP-342 Village at Greenwich CUP) has special conditions for development on the property. A copy of the recorded certificate along with four copies of the approved CUP shall be submitted to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located in the middle of a major commercial area along K-96 Highway. North of the site is zoned LC and LI Limited Industrial (LI) and is developed with a vehicle repair garage, big box retail, and commercial pad sites. South of site is a proposed 59 acre shopping center that is zoned LC and has two fast food restaurants and a bank developed on pad sites to date. East of the site is a 57 acre cemetery that is zoned LC and SF-5 Single-Family Residential (SF-5). West of the site is zoned LC and LI and is developed with a 70 acre shopping center developed with big box retail and commercial pad sites.
2. The suitability of the subject property for the uses to which it has been restricted: The 19.25-acre site is zoned LC. Current Wichita-Sedgwick County Unified Zoning Code (UZC) requirements include a CUP for LC zoned sites of 6-acres or more that are held under unified control at the time of initial approval. A CUP is intended to provide well planned and organized commercial development to certain standards prescribed by the UZC.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: LC zoning exists on the property. The requested CUP restricts land uses on the site and require specific development standards that are greater than standard LC zoning requirements. The proposed CUP use restrictions and development standards should mitigate detrimental impacts on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Wichita City Limits. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "New Employment" which encompasses areas that likely will be developed or redeveloped by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks likely will be developed within this area as well, based upon market driven location factors. In certain areas, especially those in proximity to existing residential uses, higher density housing and convenience retail centers likely will be developed. The Locational Guidelines of the Comprehensive Plan encourage major commercial development at arterial street intersections. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations.
5. Impact of the proposed development on community facilities: Any remaining access opening to Greenwich Road is subject to the City of Wichita's Access Management Policy per the requirements of the CUP and plat. All utilities currently serve the site, and the CUP indicates that all utilities will be placed underground.

SCOTT KNEBEL, Planning Staff presented the Staff Report.

RICHARDSON mentioned changing the height of the signs to 25 feet. He commented that there are also a number of references to actions to be taken at the time of platting, but added that this property is already platted.

KNEBEL said he thought it was just the sign at the corner 21st Street and Greenwich Road that the applicant wanted to be 25 feet high. He said they will revise the CUP language to reflect that. He commented that there are a number of CUP's that mention items to be done at platting when the platting happened 50 years ago. He said staff did not see the purpose in rewriting the entire CUP.

WARREN clarified that the applicant was asking to replace a deed restriction with a CUP. He said he thought deed restrictions lasted forever.

KNEBEL said the applicant is asking for creation of a CUP for the property. He said they will have to petition the City Council to eliminate the deed restriction.

MOTION: To approve subject to staff recommendation.

WARREN moved, **GREENE** seconded the motion, and it carried (8-0).

16. **Case No.: DER2016-00002** - Adoption of the Wireless Communication Master Plan as an element of the Community Investments Plan 2015-2035, the Wichita-Sedgwick County Comprehensive Plan and Amendments to certain sections of the Wichita-Sedgwick County Unified Zoning Code (UZO) pertaining to the regulation of wireless communication facilities.

RICHARDSON announced that Councilman Meitzner requested that this item be deferred to the September 29, 2016 Planning Commission hearing.

MOTION: To table the item until September 29, 2016.

RICHARDSON moved, **DOOL** seconded the motion, and it carried (8-0).

CHAIR NEUGENT announced that because the Commission is down to eight people the amendment will require a unanimous vote to pass.

17. **Case No.: DER2016-00005** - Amendments to certain sections of the Wichita-Sedgwick County Unified Zoning Code (UZO) to permit event centers, churches, farmer's markets, community assembly and bed and breakfast uses by right subject to development standards in certain zoning districts. Minor changes dealing with punctuation and codification are also proposed.

BACKGROUND: Some time ago staff was approached by two county residents who have agricultural facilities that were not being fully utilized due to limitations contained in the current Wichita-Sedgwick County Unified Zoning Code (UZC). Staff has worked to develop a series of proposed amendments that can assist farm producers to better utilize farm properties and facilities. The proposed amendments are attached in the form of a delineated and annotated resolution. Words that are underlined are proposed additions to the code. Lined through letters or words are proposed to be deleted or modified. Italicized words are annotations providing a brief description of what the proposed amendment accomplishes. The last two pages of the delineated and annotated resolution contains a section by section summary of the proposed amendments.

In general, the proposed amendments:

1. Clarify what is an agricultural use.
2. Establish a new use, “event center in the county”
3. Establish a new use, “farmer’s market in the county”
4. Permits a “church or place of worship,” “community assembly,” “bed and breakfast inn,” “event center in the county” and “farmer’s market in the county” as uses by right in the RR Rural Residential (RR) district provided they meet 12 supplemental use standards.
5. Permits “event center in the county” and “farmer’s market in the county” as uses by right in the LC Limited Commercial, GC General Commercial, LI Limited Industrial and GI General Industrial districts.
6. In the RR district only, an event center in the county, church or place of worship, community assembly or farmer’s market in the county with more than 20 acres is permitted by right provided, in part, the site or use complies with building, fire, sanitation, life-safety and other applicable codes, provides minimum parking, addresses drainage, building setback of 100 feet from property lines and submits a site plan that is approved.
7. “Church or place of worship,” “community assembly,” “bed and breakfast inn,” “event center in the county” and “farmer’s market in the county” that do not or cannot comply with the supplemental development standards may be permitted with conditional use approval.

CONFORMANCE TO PLANS/POLICIES: Strategy G of the Arts, Culture and Recreation section of the Community Investments Plan recommends that staff “Identify opportunity areas and regulatory adjustments necessary to support agritourism in the unincorporated areas of Sedgwick County.”

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that the request

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The RR district permits agricultural uses by right and a few other uses compatible with agricultural activities or uses that can be buffered from agricultural uses by large lot sizes.
2. The suitability of the subject property for the uses to which it has been restricted: Most of the event center uses requested in the County have been located in the RR district.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed supplemental use standards should minimize detrimental impacts to nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The proposed amendments would allow rural residents, farmers and other agricultural producers a wider range of by right uses and provide a greater choice for such activities within the area's marketplace. Denial of the proposed amendments would maintain the current status quo of requiring zoning approval for the identified uses.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Strategy G of the Arts, Culture and Recreation section of the Community Investments Plan recommends that staff "Identify opportunity areas and regulatory adjustments necessary to support agritourism in the unincorporated areas of Sedgwick County."
6. Impact of the proposed development on community facilities: The proposed amendments could lead to increased traffic on unpaved roads and to increased calls for code or law enforcement.

DALE MILLER, PLANNING DIRECTOR, presented the Staff Report. He referred to the handout resolution and said it was a revised, streamlined version of the completely annotated version of the resolution that was sent out with the agenda packets. He said this change would make an event center in the County a use "by right" and subject to the thirteen development standards listed in the proposed amendment. He briefly reviewed some of those standards including minimum lot size, minimum setbacks, parking provisions, drainage, submission of a site plan (for enforcement staff to refer to) and compliance with building and Fire Codes. He said they have also moved churches, place of worship and community assembly, Bed & Breakfast, event center in the County and farmer's markets in the County as uses "by right" in the RR Rural Residential Zoning District.

WARREN asked about parking and whether a grass field can be designated as parking.

DIRECTOR MILLER grass is a permissible surface as long as it is not used more than a certain interval. In addition he said crushed gravel or rock is also permissible.

RICHARDSON commented the he believes he read that the parking surface is based on how often an event occurs. He said some require gravel and some allow grass.

KNEBEL clarified that grass parking is allowed for one event per month lasting no longer than three days per event.

DAN STOCKEMER, OWNER, PRAIRIE HILL VINEYARD, 21421 WEST 37TH STREET NORTH, COLWICH, KANSAS said his farm has been in his family since 1907. He thanked the Planning Commission for bringing this amendment for agritourism by right in the Rural Residential designation to the Board of County Commissioners. He said allowing the development of agritourism will create economic development benefits for the County including a lot of new jobs and activities for residents. He said their business is approached often to host weddings and bridal showers as well as other activities at their facility. He said they would also like to open a pumpkin patch.

STOCKEMER said they will comply with the standards listed on pages 25 and 26 and do not want to impede this proposal; however, he said he would like to comment on some of the requirements. He said their primary concern was the provision of providing gravel parking if more than one event per month is held. He said no one has ever gotten stuck in his pasture and he really doesn't want to cover a beautiful pasture with gravel. He said personally he does not think it is necessary. He mentioned the provision for a parking study a cover and asked if that could help determine if gravel was necessary if the grass parking was holding up. He also said they would like to have 4-5 events per month. He said he also did not think the reporting requirement was necessary and that they should not have to report to the County what they are doing. He asked if they are in compliance, why is that even necessary and wanted to know what the purpose behind that requirement was. He concluded by once again thanking the Commission.

DIRECTOR MILLER explained that if the provision for one outdoor event per month was eliminated, then the reporting requirement would also be eliminated.

STOCKEMER asked what about the gravel parking requirement.

DIRECTOR MILLER commented that if you have a paved section line road and the parking is unpaved, event goers will be tracking mud onto road and County Engineers don't like that. He commented that this proposal was just a starting point for further discussion.

TODD asked Mr. Stockemer to offer his amendments to the proposal.

STOCKEMER suggested the following: 1) allow five or more events per weekend; and 2) remove the requirement to report to the County.

DIRECTOR MILLER commented that if the Commission does not have an issue with the number of events that is fine, he was just trying to be conservative as a starting point for discussion.

WARREN commented that grass can be an acceptable surface for parking. He asked about enacting a stiff penalty for dumping mud on the highway.

STOCKEMER referenced the parking study referred to in the proposal and said as long as they have a sturdy subsurface that will not create mud, grass parking should be allowed.

DIRECTOR MILLER said the parking study references standards for an event center such as the one space per four occupant's requirement. However, he said they wanted to be flexible and allow facility operators to submit a statement as to how they are meeting the minimum parking requirements. He said there may be a way to expand the parking study to include evaluation of grass parking areas.

STOCKEMER suggested that the County be allowed to do a parking study.

DIRECTOR MILLER explained the way that would work is the facility owner would do the parking study and submit it to County Engineering for review and approval.

WARREN said that still doesn't take care of the facility manager who allows mud to be tracked onto the section line road.

RICHARDSON suggested considering requiring a gravel driveway of a specific length which would probably eliminate most of the mud before event participants made it to the paved road. He also asked about handicapped parking.

DIRECTOR MILLER reported that all handicapped spaces are required to be paved.

GREENE commented that construction sites have minimum requirements for the length of gravel driveways. He asked about adding that as a standard.

DIRECTOR MILLER said he would talk with Public Works.

KIMBERLY STROOPE, 25501 WEST 63rd STREET, VIOLA, KANSAS RUSTIC TIMBERS she said she loves what the Commission is doing. She said they have restrictions because of the PUD they operate under, and asked if the Commission would make some concessions that would release some of those requirements.

WARREN asked if this proposal is approved, what would be the process to amend the Rustic Timbers PUD.

DIRECTOR MILLER explained because Rustic Timbers already has a PUD approved by the Board of County Commissioners this proposal would not remove any restrictions. He said as a courtesy the Planning Commission could direct staff to initiate a review of the PUD.

WARREN said the Planning Commission could approve any of those changes.

DIRECTOR MILLER said the staff can take the request for review now and process a review once the proposal being discussed has been finalized.

STROOPE briefly reviewed limitations on the number of events, times and number of people on site. She added that they are not required to report to the County; however, they do provide a "calendar of events" to Code Enforcement.

RICHARDSON asked about the limitation on the number of events.

DIRECTOR MILLER said staff can revise the proposal to eliminate any reference to number of events and the reporting requirement; add that parking surfaces may be grass; and require a gravel driveway (of whatever length depending on what Engineering suggests).

DAILEY said grass parking depends on the conditions of the field you are parking in. He said he doesn't see the need for everyone to have that provision. He asked that staff work out a parking plan.

DIRECTOR MILLER said staff can revise the proposed language and bring it back to the Planning Commission or if the Commission is comfortable, staff can tweak the proposal and send it to the County Commission.

PATRICIA PARKER, ASSISTANT COUNTY COUNCELOR, said she would prefer that staff prepare the changes and bring the item back to the Planning Commission for final approval.

DAILEY said the Planning Commission doesn't meet again until September 29 and he would like to see the item forwarded to the County Commission as soon as possible.

PARKER said as long as the Commission is specific about the changes in the motion, staff can proceed.

MOTION: To approve subject to staff recommendation and the following changes: unlimited number of events; grass parking; gravel drive (length of which to be determined by Engineering) and no reporting requirement.

TODD moved, **DOOL** seconded the motion.

DOOL asked that Planning Commissioners be e-mailed the revised proposal.

FOSTER said he had quite a few questions. He specifically mentioned "roadside selling" and asked about safety and other issues associated with that. He specifically mentioned people backing out onto the roadway.

DIRECTOR MILLER said they will be subject to the same 12 development standards listed on page 19 of the proposal.

FOSTER said the way he is reading the proposal, agriculture is completely separate from event center. He said a "Farmer's Market" is not the same as roadside selling of produce.

DIRECTOR MILLER said currently the County does not have a business license for roadside produce stands. He said if it was grown on the site, you can sell it from the roadside.

FOSTER asked about any requirement for insurance for safety of the public and if that was a civil matter. He also asked about definition of the term interpretive facilities.

DIRECTOR MILLER said insurance would be a civil matter. He said if someone wanted to build a facility to show people for example, how to raise chickens, they could do that. He added that most of the language for the proposal was taken from a State brochure regarding agritourism.

FOSTER asked about non-commercial camping and if people could just set up and camp for the whole summer. He also asked about any limitations on bon fires and camp fires.

DIRECTOR MILLER said non-commercial camping was intended to address participants staying overnight as part of the event. He said they could change the language to read "building and/or event setbacks or activities at least 100 feet from property lines".

FOSTER asked if there was any limit on the number of people permitted for community assembly.

DIRECTOR MILLER said there was no limitation on the number of people, the real limitation is the parking standard and how many parking spaces you have available.

FOSTER clarified so if someone has less than 20 acres they still have to request a Conditional Use permit. He asked what the standards were for that.

DIRECTOR MILLER said this proposal does not include conditions for anything less than 20 acres.

FOSTER asked what number of events it takes to make a facility economically viable.

STOCKEMER said it depends on how many people you employ. He said he needs to do more than \$2,000.00 a month if he is going to employ people. He said small weddings are their current focus; however, they would like to expand that with a pumpkin patch. He said his goal is \$50,000.00 the first year and grow it from there. He said down the road they would like to be able to do an enclosed vegetable facility to produce organic and locally grown produce. He said there are potentially a broad range of activities including arts shows and other things. He said he understands Commissioner Foster's concerns but they want to make this successful as well.

FOSTER said he was not comfortable with an unlimited number of events.

STOCKEMER asked how he classifies an event. He said you can easily do two events per weekend.

FOSTER asked about establishing a yearly number like 100 events per year.

STROOPE briefly commented that they usually hold one wedding per weekend in June but not every weekend in July, August, September or October. She said a rehearsal dinner is considered another event. She said 30 weddings a year is a good number for them.

DIRECTOR MILLER commented that if there is no reporting requirement on events, the County has no way to enforce that. He also mentioned that if it is an indoor event, the Fire Code will establish how many people can be in a building,

FOSTER asked what staff found about reporting in their research for the proposal.

DIRECTOR MILLER commented that neither Riley County nor Douglas County had reporting requirements. He said he doesn't remember if they had a limitation on number of events or size of buildings but the size of events was limited by parking availability.

WARREN said he liked the idea of limiting it to 100 events per year, and suggested it could be monitored that the County be given access to an event log kept by facility operators.

TODD said he would be willing to change the motion. He said every business he knows of complaints about regulatory problems. He said motion will eliminate a lot of regulations. He said he is interested in seeing something that does not have a lot of restrictions, but opens up free trade in the County.

AMENDED MOTION: To approve subject to staff recommendation and the following changes: 100 events per year; grass parking; gravel drive (length of which to be determined by Engineering) and no reporting requirement, but that a log of events be kept and produced as requested.

TODD moved, seconded by **DOOL**, and it carried (8-0).

OFF AGENDA ITEM

WARREN asked as far as public hearings are concerned, is there any way the public can be given three minutes of speaking time (instead of five minutes) and then give extensions.

DIRECTOR MILLER commented that staff can “tweak” the Bylaws to reflect that change. He added that the Commission can set whatever time limit they want on a case-by-case basis.

The Metropolitan Area Planning Commission adjourned at 6:50 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2016.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission